

Uniform Limited Partnership Act (2001)	Montana Limited Partnership Act
<p>SECTION 101. SHORT TITLE This [Act] may be cited as the Uniform Limited Partnership Act [year of enactment].</p>	<p>35-12-501. Short title. This chapter may be cited as the "Uniform Limited Partnership Act."</p>
<p>SECTION 102. DEFINITIONS In this [Act]: (1) "Certificate of limited partnership" means the certificate required by Section 201. The term includes the certificate as amended or restated. (2) "Contribution", except in the phrase "right of contribution," means any benefit provided by a person to a limited partnership in order to become a partner or in the person's capacity as a partner. (3) "Debtor in bankruptcy" means a person that is the subject of: (A) an order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or (B) a comparable order under federal, state, or foreign law governing insolvency. (4) "Designated office" means: (A) with respect to a limited partnership, the office that the limited partnership is required to designate and maintain under Section 114; and (B) with respect to a foreign limited partnership, its principal office. (5) "Distribution" means a transfer of money or other property from a limited partnership to a partner in the partner's capacity as a partner or to a transferee on account of a transferable interest owned by the transferee. (6) "Foreign limited liability limited partnership" means a foreign limited partnership whose general partners have limited liability for the obligations of the foreign limited partnership under a provision similar to Section 404(c). (7) "Foreign limited partnership" means a partnership formed under the laws of a jurisdiction other than this State and required by those laws to have one or more general partners and one or more limited partners. The</p>	<p>35-12-504. Definitions. In this chapter, the following definitions apply:: (1) "Certificate of limited partnership" means the certificate referred to in 35-12-601, as that certificate is amended or restated from time to time. (2) Contribution means any cash, property, or services rendered or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner. (3) "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in 35-12-802. (4) "Foreign limited partnership" means a partnership formed under the laws of any state other than this state and having as partners one or more general partners and one or more limited partners. (5) "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and who is named in the certificate of limited partnership as a general partner. (6) "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement. (7) "Limited partnership" and "domestic limited partnership" mean a partnership</p>

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<p>term includes a foreign limited liability limited partnership.</p> <p>(8) "General partner" means:</p> <p>(A) with respect to a limited partnership, a person that:</p> <p>(i) becomes a general partner under Section 401; or</p> <p>(ii) was a general partner in a limited partnership when the limited partnership became subject to this [Act] under Section 1206(a) or (b); and</p> <p>(B) with respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a general partner in a limited partnership.</p> <p>(9) "Limited liability limited partnership", except in the phrase "foreign limited liability limited partnership", means a limited partnership whose certificate of limited partnership states that the limited partnership is a limited liability limited partnership.</p> <p>(10) "Limited partner" means:</p> <p>(A) with respect to a limited partnership, a person that:</p> <p>(i) becomes a limited partner under Section 301; or</p> <p>(ii) was a limited partner in a limited partnership when the limited partnership became subject to this [Act] under Section 1206(a) or (b); and</p> <p>(B) with respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a limited partner in a limited partnership.</p> <p>(11) "Limited partnership", except in the phrases "foreign limited partnership" and "foreign limited liability limited partnership", means an entity, having one or more general partners and one or more limited partners, which is formed under this [Act] by two or more persons or becomes subject to this [Act] under [Article] 11 or Section 1206(a) or (b). The term includes a limited liability limited partnership.</p> <p>(12) "Partner" means a limited partner or general partner.</p> <p>(13) "Partnership agreement" means the partners' agreement, whether oral, implied, in a record, or in any combination, concerning</p>	<p>formed under the laws of this state and having one or more general partners and one or more limited partners.</p> <p>(8) "Partner" means any limited partner or general partner.</p> <p>(9) "Partnership agreement" means the agreement, written or, to the extent not prohibited by law, oral, or both, of the partners as to the affairs of a limited partnership and the conduct of its business.</p> <p>(10) "Partnership interest" has the meaning specified in 35-12-1101.</p> <p>(11) "Person" means a natural person, partnership, limited partnership (domestic or foreign), trust, estate, association, or corporation.</p> <p>(12) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.</p>

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<p>the limited partnership. The term includes the agreement as amended.</p> <p>(14) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.</p> <p>(15) "Person dissociated as a general partner" means a person dissociated as a general partner of a limited partnership.</p> <p>(16) "Principal office" means the office where the principal executive office of a limited partnership or foreign limited partnership is located, whether or not the office is located in this State.</p> <p>(17) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.</p> <p>(18) "Required information" means the information that a limited partnership is required to maintain under Section 111.</p> <p>(19) "Sign" means:</p> <p>(A) to execute or adopt a tangible symbol with the present intent to authenticate a record; or</p> <p>(B) to attach or logically associate an electronic symbol, sound, or process to or with a record with the present intent to authenticate the record.</p> <p>(20) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.</p> <p>(21) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, and transfer by operation of law.</p> <p>(22) "Transferable interest" means a partner's right to receive distributions.</p> <p>(23) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.</p>	
SECTION 103. KNOWLEDGE AND NOTICE	35-12-608. Constructive notice.

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<p>(a) A person knows a fact if the person has actual knowledge of it.</p> <p>(b) A person has notice of a fact if the person:</p> <ol style="list-style-type: none"> (1) knows of it; (2) has received a notification of it; (3) has reason to know it exists from all of the facts known to the person at the time in question; or (4) has notice of it under subsection (c) or (d). <p>(c) A certificate of limited partnership on file in the [office of the Secretary of State] is notice that the partnership is a limited partnership and the persons designated in the certificate as general partners are general partners. Except as otherwise provided in subsection (d), the certificate is not notice of any other fact.</p> <p>(d) A person has notice of:</p> <ol style="list-style-type: none"> (1) another person's dissociation as a general partner, 90 days after the effective date of an amendment to the certificate of limited partnership which states that the other person has dissociated or 90 days after the effective date of a statement of dissociation pertaining to the other person, whichever occurs first; (2) a limited partnership's dissolution, 90 days after the effective date of an amendment to the certificate of limited partnership stating that the limited partnership is dissolved; (3) a limited partnership's termination, 90 days after the effective date of a statement of termination; (4) a limited partnership's conversion under [Article] 11, 90 days after the effective date of the articles of conversion; or (5) a merger under [Article] 11, 90 days after the effective date of the articles of merger. <p>(e) A person notifies or gives a notification to another person by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person learns of it.</p> <p>(f) A person receives a notification when the notification:</p> <ol style="list-style-type: none"> (1) comes to the person's attention; or (2) is delivered at the person's place of business or at any other place held out by the person as a place for receiving communications. 	<p>The fact that a certificate of limited partnership is on file in the office of the secretary of state is constructive notice that the partnership is on file in the office of the secretary of state is constructive notice that the partnership is a limited partnership and that the persons designated in the certificate as general partners are general partners but is constructive notice of any other fact.</p>

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<p>(g) Except as otherwise provided in subsection (h), a person other than an individual knows, has notice, or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction for the person knows, has notice, or receives a notification of the fact, or in any event when the fact would have been brought to the individual's attention if the person had exercised reasonable diligence. A person other than an individual exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the individual conducting the transaction for the person and there is reasonable compliance with the routines. Reasonable diligence does not require an individual acting for the person to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.</p> <p>(h) A general partner's knowledge, notice, or receipt of a notification of a fact relating to the limited partnership is effective immediately as knowledge of, notice to, or receipt of a notification by the limited partnership, except in the case of a fraud on the limited partnership committed by or with the consent of the general partner. A limited partner's knowledge, notice, or receipt of a notification of a fact relating to the limited partnership is not effective as knowledge of, notice to, or receipt of a notification by the limited partnership.</p>	
<p>SECTION 104. NATURE, PURPOSE, AND DURATION OF ENTITY</p> <p>(a) A limited partnership is an entity distinct from its partners. A limited partnership is the same entity regardless of whether its certificate states that the limited partnership is a limited liability limited partnership.</p> <p>(b) A limited partnership may be organized under this [Act] for any lawful purpose.</p> <p>(c) A limited partnership has perpetual duration.</p>	<p>35-12-509. Nature of business</p> <p>A limited partnership may carry on any business that a partnership without a limited partner may carry on.</p>

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<p>SECTION 105. POWERS A limited partnership has the powers to do all things necessary or convenient to carry on its activities, including the power to sue, be sued, and defend in its own name and to maintain an action against a partner for harm caused to the limited partnership by a breach of the partnership agreement or violation of a duty to the partnership.</p>	
<p>SECTION 106. GOVERNING LAW The law of this State governs relations among the partners of a limited partnership and between the partners and the limited partnership and the liability of partners as partners for an obligation of the limited partnership.</p>	
<p>SECTION 107. SUPPLEMENTAL PRINCIPLES OF LAW; RATE OF INTEREST (a) Unless displaced by particular provisions of this [Act], the principles of law and equity supplement this [Act]. (b) If an obligation to pay interest arises under this [Act] and the rate is not specified, the rate is that specified in [applicable statute].</p>	
<p>SECTION 108. NAME (a) The name of a limited partnership may contain the name of any partner. (b) The name of a limited partnership that is not a limited liability limited partnership must contain the phrase "limited partnership" or the abbreviation "L.P." or "LP" and may not contain the phrase "limited liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P." (c) The name of a limited liability limited partnership must contain the phrase "limited liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P." and must not contain the abbreviation "L.P." or "LP." (d) Unless authorized by subsection (e), the name of a limited partnership must be distinguishable in the records of the [Secretary of State] from: (1) the name of each person other than an individual incorporated, organized, or authorized to transact business in this State;</p>	<p>35-12-505. Name (1) The name of each limited partnership as set forth in its certificate of limited partnership: (a) must contain the words "limited partnership", the abbreviation "l.p.", or the designation "lp"; (b) may not contain the name of a limited partner unless: (i) it is also the name of a general partner; or (ii) the business of the limited partnership had been carried on under that name before admission of that limited partner; (c) may not contain business name identifiers as defined in 30-13-201, or other language that states or implies that the limited partnership is</p>

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<p>and</p> <p>(2) each name reserved under Section 109 [or other state laws allowing the reservation or registration of business names, including fictitious name statutes].</p> <p>(e) A limited partnership may apply to the [Secretary of State] for authorization to use a name that does not comply with subsection (d). The [Secretary of State] shall authorize use of the name applied for if, as to each conflicting name:</p> <p>(1) the present user, registrant, or owner of the conflicting name consents in a signed record to the use and submits an undertaking in a form satisfactory to the [Secretary of State] to change the conflicting name to a name that complies with subsection (d) and is distinguishable in the records of the [Secretary of State] from the name applied for;</p> <p>(2) the applicant delivers to the [Secretary of State] a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use in this State the name applied for; or</p> <p>(3) the applicant delivers to the [Secretary of State] proof satisfactory to the [Secretary of State] that the present user, registrant, or owner of the conflicting name:</p> <p>(A) has merged into the applicant;</p> <p>(B) has been converted into the applicant; or</p> <p>(C) has transferred substantially all of its assets, including the conflicting name, to the applicant. (f) Subject to Section 905, this section applies to any foreign limited partnership transacting business in this State, having a certificate of authority to transact business in this State, or applying for a certificate of authority.</p>	<p>other than a limited partnership; and</p> <p>(d) must be distinguishable on the record from the name of any corporation, limited partnership, or limited liability company organized under the laws of this state or licensed or registered as a foreign corporation or limited partnership in this state.</p> <p>(2) The use of a limited partnership's name by another corporation, limited partnership, or limited liability company is governed by 35-1-308.</p>
<p>SECTION 109. RESERVATION OF NAME</p> <p>(a) The exclusive right to the use of a name that complies with Section 108 may be reserved by:</p> <p>(1) a person intending to organize a limited partnership under this [Act] and to adopt the name;</p> <p>(2) a limited partnership or a foreign limited partnership authorized to transact business in this State intending to adopt the name;</p>	<p>35-12-506. Reservation of name</p> <p>(1) The exclusive right to the use of a name may be reserved by:</p> <p>(a) any person intending to organize a limited partnership under this chapter and to adopt that name;</p> <p>(b) any domestic limited partnership or any foreign limited partnership registered in this</p>

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<p>(3) a foreign limited partnership intending to obtain a certificate of authority to transact business in this State and adopt the name;</p> <p>(4) a person intending to organize a foreign limited partnership and intending to have it obtain a certificate of authority to transact business in this State and adopt the name;</p> <p>(5) a foreign limited partnership formed under the name; or</p> <p>(6) a foreign limited partnership formed under a name that does not comply with Section 108(b) or (c), but the name reserved under this paragraph may differ from the foreign limited partnership's name only to the extent necessary to comply with Section 108(b) and (c).</p> <p>(b) A person may apply to reserve a name under subsection (a) by delivering to the [Secretary of State] for filing an application that states the name to be reserved and the paragraph of subsection (a) which applies. If the [Secretary of State] finds that the name is available for use by the applicant, the [Secretary of State] shall file a statement of name reservation and thereby reserve the name for the exclusive use of the applicant for a 120 days.</p> <p>(c) An applicant that has reserved a name pursuant to subsection (b) may reserve the same name for additional 120-day periods. A person having a current reservation for a name may not apply for another 120-day period for the same name until 90 days have elapsed in the current reservation.</p> <p>(d) A person that has reserved a name under this section may deliver to the [Secretary of State] for filing a notice of transfer that states the reserved name, the name and street and mailing address of some other person to which the reservation is to be transferred, and the paragraph of subsection (a) which applies to the other person. Subject to Section 206(c), the transfer is effective when the [Secretary of State] files the notice of transfer.</p>	<p>state which, in either case, intends to adopt that name;</p> <p>(c) any foreign limited partnership intending to register in this state and to adopt that name; and</p> <p>(d) any person intending to organize a foreign limited partnership and intending to have it registered in this state and to adopt that name.</p> <p>(2) The reservation must be made by filing with the secretary of state an application, executed by the applicant, to reserve a specified name. If the secretary of state finds that the name is available for use by a domestic or foreign limited partnership, he shall reserve the name for the exclusive use of the applicant for a period of 120 days. Once having reserved a name, the applicant may not again reserve the name until more than 600 days after the expiration of the last 120 day period for which that applicant had reserved that name. The right to the exclusive use of a name so reserved may be transferred to any other person by filing in the office of the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.</p>
<p>SECTION 110. EFFECT OF PARTNERSHIP AGREEMENT; NONWAIVABLE PROVISIONS</p> <p>(a) Except as otherwise provided in subsection (b), the partnership agreement</p>	

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<p>governs relations among the partners and between the partners and the partnership. To the extent the partnership agreement does not otherwise provide, this [Act] governs relations among the partners and between the partners and the partnership.</p> <p>(b) A partnership agreement may not:</p> <p>(1) vary a limited partnership's power under Section 105 to sue, be sued, and defend in its own name;</p> <p>(2) vary the law applicable to a limited partnership under Section 106;</p> <p>(3) vary the requirements of Section 204;</p> <p>(4) vary the information required under Section 111 or unreasonably restrict the right to information under Sections 304 or 407, but the partnership agreement may impose reasonable restrictions on the availability and use of information obtained under those sections and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;</p> <p>(5) eliminate the duty of loyalty under Section 408, but the partnership agreement may:</p> <p>(A) identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable; and</p> <p>(B) specify the number or percentage of partners which may authorize or ratify, after full disclosure to all partners of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;</p> <p>(6) unreasonably reduce the duty of care under Section 408(c);</p> <p>(7) eliminate the obligation of good faith and fair dealing under Sections 305(b) and 408(d), but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;</p> <p>(8) vary the power of a person to dissociate as a general partner under Section 604(a) except to require that the notice under Section 603(1) be in a record;</p> <p>(9) vary the power of a court to decree dissolution in the circumstances specified in Section 802;</p> <p>(10) vary the requirement to wind up the partnership's business as specified in Section</p>	

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<p>803;</p> <p>(11) unreasonably restrict the right to maintain an action under [Article] 10;</p> <p>(12) restrict the right of a partner under Section 1110(a) to approve a conversion or merger or the right of a general partner under Section 1110(b) to consent to an amendment to the certificate of limited partnership which deletes a statement that the limited partnership is a limited liability limited partnership; or</p> <p>(13) restrict rights under this [Act] of a person other than a partner or a transferee.</p>	
<p>SECTION 111. REQUIRED INFORMATION</p> <p>A limited partnership shall maintain at its designated office the following information:</p> <p>(1) a current list showing the full name and last known street and mailing address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order;</p> <p>(2) a copy of the initial certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under which any certificate, amendment, or restatement has been signed;</p> <p>(3) a copy of any filed articles of conversion or merger;</p> <p>(4) a copy of the limited partnership's federal, state, and local income tax returns and reports, if any, for the three most recent years;</p> <p>(5) a copy of any partnership agreement made in a record and any amendment made in a record to any partnership agreement;</p> <p>(6) a copy of any financial statement of the limited partnership for the three most recent years;</p> <p>(7) a copy of the three most recent annual reports delivered by the limited partnership to the [Secretary of State] pursuant to Section 210;</p> <p>(8) a copy of any record made by the limited partnership during the past three years of any consent given by or vote taken of any partner pursuant to this [Act] or the partnership agreement; and</p> <p>(9) unless contained in a partnership</p>	<p>35-12-508. Records to be kept</p> <p>(1) Each limited partnership shall keep at the office referred to in 35-12-507(1) the following:</p> <p>(a) a current list of the full name and last-known business address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order;</p> <p>(b) a copy of the certificate of limited partnership and all certificates of amendment, together with executed copies of any powers of attorney pursuant to which any certificate has been executed;</p> <p>(c) copies of the limited partnership's federal, state, and local income tax returns and reports, if any, for the 3 most recent years;</p> <p>(d) copies of any then-effective written partnership agreements and of any financial statements of the limited partnership for the 3 most recent years; and</p> <p>(e) unless contained in a written partnership agreement, a writing setting out:</p> <p>(i) the amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and that each partner has agreed to</p>

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<p>agreement made in a record, a record stating:</p> <p>(A) the amount of cash, and a description and statement of the agreed value of the other benefits, contributed and agreed to be contributed by each partner;</p> <p>(B) the times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made;</p> <p>(C) for any person that is both a general partner and a limited partner, a specification of what transferable interest the person owns in each capacity; and</p> <p>(D) any events upon the happening of which the limited partnership is to be dissolved and its activities wound up.</p>	<p>contribute;</p> <p>(ii) the times at which or the events on the happening of which any additional contributions agreed to be made by each partner are to be made;</p> <p>(iii) any right of a partner to receive or of a general partner to make distributions to a partner that include a return of all or any part of the partner's contribution; and</p> <p>(iv) any events, upon the happening of which, the limited partnership is to be dissolved and its affairs wound up.</p> <p>(2) Records kept under this section must be available for inspection and copying at the reasonable request and at the expense of any partner during ordinary business hours.</p>
<p>SECTION 112. BUSINESS TRANSACTIONS OF PARTNER WITH PARTNERSHIP</p> <p>A partner may lend money to and transact other business with the limited partnership and has the same rights and obligations with respect to the loan or other transaction as a person that is not a partner.</p>	<p>35-12-510. Business transactions of partner with the partnership</p> <p>Except as otherwise provided in the partnership agreement, a partner may lend money to and transact other business with the limited partnership and, subject to other applicable provisions of law, has the same rights and obligations with respect thereto as a person who is not a partner.</p>
<p>SECTION 113. DUAL CAPACITY</p> <p>A person may be both a general partner and a limited partner. A person that is both a general and limited partner has the rights, powers, duties, and obligations provided by this [Act] and the partnership agreement in each of those capacities. When the person acts as a general partner, the person is subject to the obligations, duties and restrictions under this [Act] and the partnership agreement for general partners. When the person acts as a limited partner, the person is subject to the obligations, duties and restrictions under this [Act] and the partnership agreement for limited partners.</p>	

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<p>SECTION 114. OFFICE AND AGENT FOR SERVICE OF PROCESS</p> <p>(a) A limited partnership shall designate and continuously maintain in this State:</p> <p>(1) an office, which need not be a place of its activity in this State; and</p> <p>(2) an agent for service of process.</p> <p>(b) A foreign limited partnership shall designate and continuously maintain in this State an agent for service of process.</p> <p>(c) An agent for service of process of a limited partnership or foreign limited partnership must be an individual who is a resident of this State or other person authorized to do business in this State.</p>	<p>35-12-507. Specified office and agent</p> <p>Each limited partnership shall continuously maintain in this state:</p> <p>(1) an office, which may but need not be a place of its business in this state, at which must be kept the records required to be maintained by 35-12-508; and</p> <p>(2) an agent for service of process on the limited partnership, which agent must be an individual resident of this state, a domestic corporation, or a foreign corporation authorized to do business in this state.</p> <p>(3) Unless the registered agent signed the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served is not effective until the agent delivers a statement in writing to the secretary of state accepting the appointment.</p>
<p>SECTION 115. CHANGE OF DESIGNATED OFFICE OR AGENT FOR SERVICE OF PROCESS</p> <p>(a) In order to change its designated office, agent for service of process, or the address of its agent for service of process, a limited partnership or a foreign limited partnership may deliver to the [Secretary of State] for filing a statement of change containing:</p> <p>(1) the name of the limited partnership or foreign limited partnership;</p> <p>(2) the street and mailing address of its current designated office;</p> <p>(3) if the current designated office is to be changed, the street and mailing address of the new designated office;</p> <p>(4) the name and street and mailing address of its current agent for service of process; and</p> <p>(5) if the current agent for service of process or an address of the agent is to be changed, the new information.</p> <p>(b) Subject to Section 206(c), a statement of change is effective when filed by the [Secretary of State].</p>	
<p>SECTION 116. RESIGNATION OF AGENT FOR</p>	

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<p>SERVICE OF PROCESS</p> <p>(a) In order to resign as an agent for service of process of a limited partnership or foreign limited partnership, the agent must deliver to the [Secretary of State] for filing a statement of resignation containing the name of the limited partnership or foreign limited partnership.</p> <p>(b) After receiving a statement of resignation, the [Secretary of State] shall file it and mail a copy to the designated office of the limited partnership or foreign limited partnership and another copy to the principal office if the address of the office appears in the records of the [Secretary of State] and is different from the address of the designated office.</p> <p>(c) An agency for service of process is terminated on the 31st day after the [Secretary of State] files the statement of resignation.</p>	
<p>SECTION 117. SERVICE OF PROCESS</p> <p>(a) An agent for service of process appointed by a limited partnership or foreign limited partnership is an agent of the limited partnership or foreign limited partnership for service of any process, notice, or demand required or permitted by law to be served upon the limited partnership or foreign limited partnership.</p> <p>(b) If a limited partnership or foreign limited partnership does not appoint or maintain an agent for service of process in this State or the agent for service of process cannot with reasonable diligence be found at the agent's address, the [Secretary of State] is an agent of the limited partnership or foreign limited partnership upon whom process, notice, or demand may be served.</p> <p>(c) Service of any process, notice, or demand on the [Secretary of State] may be made by delivering to and leaving with the [Secretary of State] duplicate copies of the process, notice, or demand. If a process, notice, or demand is served on the [Secretary of State], the [Secretary of State] shall forward one of the copies by registered or certified mail, return receipt requested, to the limited partnership or foreign limited partnership at its designated office.</p>	<p>No comparable provision.</p>

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<p>(d) Service is effected under subsection (c) at the earliest of:</p> <p>(1) the date the limited partnership or foreign limited partnership receives the process, notice, or demand;</p> <p>(2) the date shown on the return receipt, if signed on behalf of the limited partnership or foreign limited partnership; or</p> <p>(3) five days after the process, notice, or demand is deposited in the mail, if mailed postpaid and correctly addressed.</p> <p>(e) The [Secretary of State] shall keep a record of each process, notice, and demand served pursuant to this section and record the time of, and the action taken regarding, the service.</p> <p>(f) This section does not affect the right to serve process, notice, or demand in any other manner provided by law.</p>	
<p>SECTION 118. CONSENT AND PROXIES OF PARTNERS</p> <p>Action requiring the consent of partners under this [Act] may be taken without a meeting, and a partner may appoint a proxy to consent or otherwise act for the partner by signing an appointment record, either personally or by the partner's attorney in fact.</p>	
	<p>35-12-521. Secretary of state to establish fees</p> <p>The secretary of state shall set filing fees for processing the applications and certificates. The secretary of state may establish fees for filing a certificate of limited partnership, a certificate of amendment or restatement, a certificate of cancellation, an application to reserve a name, a notice of transfer of a reserved name, an application for registration of a foreign limited partnership, or a certificate of cancellation or correction of a foreign limited partnership or for filing any other statement or report of a domestic or foreign limited partnership. The fees authorized in this section must be set and deposited in accordance with 2-15-405.</p>
<p>SECTION 201. FORMATION OF LIMITED PARTNERSHIP; CERTIFICATE OF LIMITED PARTNERSHIP</p> <p>(a) In order for a limited partnership to be</p>	<p>35-12-601. Certificate of limited partnership.</p> <p>(1) In order for form a limited partnership, a certificate of limited partnership must be</p>

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<p>formed, a certificate of limited partnership must be delivered to the [Secretary of State] for filing. The certificate must state:</p> <p>(1) the name of the limited partnership, which must comply with Section 108;</p> <p>(2) the street and mailing address of the initial designated office and the name and street and mailing address of the initial agent for service of process;</p> <p>(3) the name and the street and mailing address of each general partner;</p> <p>(4) whether the limited partnership is a limited liability limited partnership; and</p> <p>(5) any additional information required by [Article] 11.</p> <p>(b) A certificate of limited partnership may also contain any other matters but may not vary or otherwise affect the provisions specified in Section 110(b) in a manner inconsistent with that section.</p> <p>(c) If there has been substantial compliance with subsection (a), subject to Section 206(c) a limited partnership is formed when the [Secretary of State] files the certificate of limited partnership.</p> <p>(d) Subject to subsection (b), if any provision of a partnership agreement is inconsistent with the filed certificate of limited partnership or with a filed statement of dissociation, termination, or change or filed articles of conversion or merger:</p> <p>(1) the partnership agreement prevails as to partners and transferees; and</p> <p>(2) the filed certificate of limited partnership, statement of dissociation, termination, or change or articles of conversion or merger prevail as to persons, other than partners and transferees, that reasonably rely on the filed record to their detriment.</p>	<p>executed, must be filed in the office of the secretary of state, and must set forth;</p> <p>(a) the name of the limited partnership;</p> <p>(b) the complete street address of the office and the name and complete street address of the agent for service of process required to be maintained by 35-12-507;</p> <p>(c) the name and the complete business street address of each general partner; and</p> <p>(d) any other matters the general partners, in their sole discretion, determine to include.</p> <p>(2) A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the secretary of state or at any later time specified in the certificate of limited partnership if, in each case, there has been substantial compliance with the requirements of this section.</p>
<p>SECTION 202. AMENDMENT OR RESTATEMENT OF CERTIFICATE</p> <p>(a) In order to amend its certificate of limited partnership, a limited partnership must deliver to the [Secretary of State] for filing an amendment or, pursuant to [Article]=11, articles of merger stating:</p> <p>(1) the name of the limited partnership;</p>	<p>35-12-602. Amendments to certificate – related certificates.</p> <p>(1) A certificate of limited partnership is amended by filing a certificate of amendment in the office of the secretary of state. The</p>

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<p>(2) the date of filing of its initial certificate; and</p> <p>(3) the changes the amendment makes to the certificate as most recently amended or restated.</p> <p>(b) A limited partnership shall promptly deliver to the [Secretary of State] for filing an amendment to a certificate of limited partnership to reflect:</p> <p>(1) the admission of a new general partner;</p> <p>(2) the dissociation of a person as a general partner; or</p> <p>(3) the appointment of a person to wind up the limited partnership's activities under Section 803(c) or (d).</p> <p>(c) A general partner that knows that any information in a filed certificate of limited partnership was false when the certificate was filed or has become false due to changed circumstances shall promptly:</p> <p>(1) cause the certificate to be amended; or</p> <p>(2) if appropriate, deliver to the [Secretary of State] for filing a statement of change pursuant to Section 115 or a statement of correction pursuant to Section 207.</p> <p>(d) A certificate of limited partnership may be amended at any time for any other proper purpose as determined by the limited partnership.</p> <p>(e) A restated certificate of limited partnership may be delivered to the [Secretary of State] for filing in the same manner as an amendment.</p> <p>(f) Subject to Section 206(c), an amendment or restated certificate is effective when filed by the [Secretary of State].</p>	<p>certificate must set forth:</p> <p>(a) the name of the limited partnership;</p> <p>(b) the date of filing of the certificate; and</p> <p>(c) the amendments to the certificate.</p> <p>(2) An amendment to a certificate of limited partnership reflecting the occurrence of the event or events must be filed within 30 days after the happening of any of the following events:</p> <p>(a) the admission of a new general partner;</p> <p>(b) the withdrawal of a general partner; or</p> <p>(c) the continuation of the business under 35-12-1201(3) after an event of withdrawal of a general partner.</p> <p>(3) A certificate of limited partnership must be amended promptly by any general partner upon becoming aware that any statement in the certificate was false when made or that any arrangements or other facts described have changed, making the certificate inaccurate in any respect.</p> <p>(4) A certificate of limited partnership may be amended at any time for any other proper purpose the general partners may determine.</p> <p>(5) A person is not liable because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of any event referred to in subsection 92) if the amendment is filed within the 30-day period specified in subsection (2).</p> <p>(6) A restated certificate of limited partnership may be executed and filed in the same manner as a certificate of amendment.</p>
<p>SECTION 203. STATEMENT OF TERMINATION</p> <p>A dissolved limited partnership that has completed winding up may deliver to the</p>	<p>35-12-603. Cancellation of certificate.</p> <p>A certificate of limited partnership must be</p>

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<p>[Secretary of State] for filing a statement of termination that states:</p> <ul style="list-style-type: none"> (1) the name of the limited partnership; (2) the date of filing of its initial certificate of limited partnership; and (3) any other information as determined by the general partners filing the statement or by a person appointed pursuant to Section 803(c) or (d). 	<p>canceled upon the dissolution and the commencement of winding up of the limited partnership and at any other time there are no remaining limited partners. A certificate of cancellation must be filed in the office of the secretary of state and shall set forth:</p> <ul style="list-style-type: none"> (1) the name of the limited partnership; (2) the date of filing of the certificate of limited partnership; (3) the reason for filing the certificate of cancellation; (4) the effective date (which must be a date certain) of cancellation if it is not to be effective upon the filing of the certificate; and (5) any other information the general partners filing the certificate may determine.
<p>SECTION 204. SIGNING OF RECORDS</p> <p>(a) Each record delivered to the [Secretary of State] for filing pursuant to this [Act] must be signed in the following manner:</p> <ul style="list-style-type: none"> (1) An initial certificate of limited partnership must be signed by all general partners listed in the certificate. (2) An amendment adding or deleting a statement that the limited partnership is a limited liability limited partnership must be signed by all general partners listed in the certificate. (3) An amendment designating as general partner a person admitted under Section 801 (3)(B) following the dissociation of a limited partnership's last general partner must be signed by that person. (4) An amendment required by Section 803(c) following the appointment of a person to wind up the dissolved limited partnership's activities must be signed by that person. (5) Any other amendment must be signed by: <ul style="list-style-type: none"> (A) at least one general partner listed in the certificate; (B) each other person designated in the amendment as a new general partner; and (C) each person that the amendment 	<p>25-12-604. Execution of certificates.</p> <ul style="list-style-type: none"> (1) Each certificate required by 35-12-601 through 35-12-609 to be filed in the office of the secretary of state must be executed in the following manner: <ul style="list-style-type: none"> (a) An initial certificate of limited partnership must be signed by all general partners. (b) Each certificate of amendment must be signed by at least one general partner and by each other general partner who is designated in the certificate a new general partner. (c) Each certificate of cancellation must be signed by all general partners. (2) Any person may sign a certificate by an attorney-in-fact, but any power of attorney to sign a certificate relating to the admission of a general partner must specifically describe the admission. (3) The execution of a certificate by a general partner constitutes an affirmation under the

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<p>indicates has dissociated as a general partner, unless:</p> <p>(i) the person is deceased or a guardian or general conservator has been appointed for the person and the amendment so states; or</p> <p>(ii) the person has previously delivered to the [Secretary of State] for filing a statement of dissociation.</p> <p>(6) A restated certificate of limited partnership must be signed by at least one general partner listed in the certificate, and, to the extent the restated certificate effects a change under any other paragraph of this subsection, the certificate must be signed in a manner that satisfies that paragraph.</p> <p>(7) A statement of termination must be signed by all general partners listed in the certificate or, if the certificate of a dissolved limited partnership lists no general partners, by the person appointed pursuant to Section 803(c) or (d) to wind up the dissolved limited partnership's activities.</p> <p>(8) Articles of conversion must be signed by each general partner listed in the certificate of limited partnership.</p> <p>(9) Articles of merger must be signed as provided in Section 1108(a).</p> <p>(10) Any other record delivered on behalf of a limited partnership to the [Secretary of State] for filing must be signed by at least one general partner listed in the certificate.</p> <p>(11) A statement by a person pursuant to Section 605(a)(4) stating that the person has dissociated as a general partner must be signed by that person.</p> <p>(12) A statement of withdrawal by a person pursuant to Section 306 must be signed by that person.</p> <p>(13) A record delivered on behalf of a foreign limited partnership to the [Secretary of State] for filing must be signed by at least one general partner of the foreign limited partnership.</p> <p>(14) Any other record delivered on behalf of any person to the [Secretary of State] for filing must be signed by that person.</p> <p>(b) Any person may sign by an attorney in fact any record to be filed pursuant to this [Act].</p>	<p>penalties of perjury that the facts stated in the certificate are true.</p>

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<p>SECTION 205. SIGNING AND FILING PURSUANT TO JUDICIAL ORDER</p> <p>(a) If a person required by this [Act] to sign a record or deliver a record to the [Secretary of State] for filing does not do so, any other person that is aggrieved may petition the [appropriate court] to order:</p> <ol style="list-style-type: none"> (1) the person to sign the record; (2) deliver the record to the [Secretary of State] for filing; or (3) the [Secretary of State] to file the record unsigned. <p>(b) If the person aggrieved under subsection (a) is not the limited partnership or foreign limited partnership to which the record pertains, the aggrieved person shall make the limited partnership or foreign limited partnership a party to the action. A person aggrieved under subsection (a) may seek the remedies provided in subsection (a) in the same action in combination or in the alternative.</p> <p>(c) A record filed unsigned pursuant to this section is effective without being signed.</p>	<p>35-12-605. Execution by judicial act.</p> <p>If the persons required by 35-12-604 to execute any certificate fail or refuse to do so, any other person who is adversely affected by the failure or refusal may petition the district court to direct the execution of the certificate. If the court finds that it is proper for the certificate to be executed and that the persons so designated have failed or refused to execute the certificate, it shall order the secretary of state to record an appropriate certificate.</p>
<p>SECTION 206. DELIVERY TO AND FILING OF RECORDS BY [SECRETARY OF STATE]; EFFECTIVE TIME AND DATE</p> <p>(a) A record authorized or required to be delivered to the [Secretary of State] for filing under this [Act] must be captioned to describe the record's purpose, be in a medium permitted by the [Secretary of State], and be delivered to the [Secretary of State]. Unless the [Secretary of State] determines that a record does not comply with the filing requirements of this [Act], and if all filing fees have been paid, the [Secretary of State] shall file the record and:</p> <ol style="list-style-type: none"> (1) for a statement of dissociation, send: <ol style="list-style-type: none"> (A) a copy of the filed statement and a receipt for the fees to the person which the statement indicates has dissociated as a general partner; and (B) a copy of the filed statement and receipt to the limited partnership; (2) for a statement of withdrawal, send: <ol style="list-style-type: none"> (A) a copy of the filed statement and a receipt for the fees to the person on whose behalf the record was filed; and 	<p>35-12-606. Filing in the office of the secretary of state.</p> <p>(1) The certificate of limited partnership and of any certificates of amendment, restatement, or cancellation or of any judicial decree of amendment, restatement, or cancellation must be delivered to the secretary of state. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of the person's authority as a prerequisite to filing. Unless the secretary of state finds that any certificate does not conform to law, upon receipt of all filing fees required by law the secretary of state shall:</p> <ol style="list-style-type: none"> (a) endorse on the document the word "filed" and the day, month, and year of the filing; (b) file the original in the secretary of state's office; and (c) return the copy to the person who filed it or the person's representative. <p>(2) Upon the filing of a certificate of amendment, restatement, or judicial decree of amendment in the office of the secretary of state, the certificate of limited partnership is amended or restated as set forth in the</p>

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<p>(B) if the statement refers to an existing limited partnership, a copy of the filed statement and receipt to the limited partnership; and</p> <p>(3) for all other records, send a copy of the filed record and a receipt for the fees to the person on whose behalf the record was filed.</p> <p>(b) Upon request and payment of a fee, the [Secretary of State] shall send to the requester a certified copy of the requested record.</p> <p>(c) Except as otherwise provided in Sections 116 and 207, a record delivered to the [Secretary of State] for filing under this [Act] may specify an effective time and a delayed effective date. Except as otherwise provided in this [Act], a record filed by the [Secretary of State] is effective:</p> <p>(1) if the record does not specify an effective time and does not specify a delayed effective date, on the date and at the time the record is filed as evidenced by the [Secretary of State's] endorsement of the date and time on the record;</p> <p>(2) if the record specifies an effective time but not a delayed effective date, on the date the record is filed at the time specified in the record;</p> <p>(3) if the record specifies a delayed effective date but not an effective time, at 12:01 a.m. on the earlier of:</p> <p>(A) the specified date; or</p> <p>(B) the 90th day after the record is filed;</p> <p>(4) if the record specifies an effective time and a delayed effective date, at the specified time on the earlier of:</p> <p>(A) the specified date; or</p> <p>(B) the 90th day after the record is filed.</p>	<p>certificate. Upon the effective date of a certificate of cancellation or a judicial decree of cancellation, the certificate of limited partnership is canceled.</p>
	<p>35-12-609. Delivery of certificates to limited partners.</p> <p>Upon the return by the secretary of state pursuant to 35-12-606 of any certificate marked "filed", the general partners shall promptly deliver or mail a copy of the certificate to each limited partner unless the partnership agreement provides otherwise.</p>
<p>SECTION 207. CORRECTING FILED RECORD</p> <p>(a) A limited partnership or foreign limited</p>	

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<p>partnership may deliver to the [Secretary of State] for filing a statement of correction to correct a record previously delivered by the limited partnership or foreign limited partnership to the [Secretary of State] and filed by the [Secretary of State], if at the time of filing the record contained false or erroneous information or was defectively signed.</p> <p>(b) A statement of correction may not state a delayed effective date and must:</p> <p>(1) describe the record to be corrected, including its filing date, or attach a copy of the record as filed;</p> <p>(2) specify the incorrect information and the reason it is incorrect or the manner in which the signing was defective; and (3) correct the incorrect information or defective signature.</p> <p>(c) When filed by the [Secretary of State], a statement of correction is effective retroactively as of the effective date of the record the statement corrects, but the statement is effective when filed:</p> <p>(1) for the purposes of Section 103(c) and (d); and</p> <p>(2) as to persons relying on the uncorrected record and adversely affected by the correction.</p>	
<p>SECTION 208. LIABILITY FOR FALSE INFORMATION IN FILED RECORD</p> <p>(a) If a record delivered to the [Secretary of State] for filing under this [Act] and filed by the [Secretary of State] contains false information, a person that suffers loss by reliance on the information may recover damages for the loss from:</p> <p>(1) a person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be false at the time the record was signed; and (2) a general partner that has notice that the information was false when the record was filed or has become false because of changed circumstances, if the general partner has notice for a reasonably sufficient time before the information is relied upon to enable the</p>	<p>35-12-607. Liability for false statement in certificate.</p> <p>If any certificate of limited partnership or certificate of amendment, restatement, or cancellation contains a false statement, any person who suffers loss by reliance on the statement may recover damages for the loss from:</p> <p>(1) any person actually executing the certificate or causing another to execute it on the person's behalf who knew and any general partner who knew or should have known the statement to be false at the time the certificate was executed; and</p> <p>(2) any general partner who after the execution of the certificate knew or should have known that any arrangements or other</p>

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<p>general partner to effect an amendment under Section 202, file a petition pursuant to Section 205, or deliver to the [Secretary of State] for filing a statement of change pursuant to Section 115 or a statement of correction pursuant to Section 207.</p> <p>(b) Signing a record authorized or required to be filed under this [Act] constitutes an affirmation under the penalties of perjury that the facts stated in the record are true.</p>	<p>facts described in the certificate have changed, making the statement inaccurate in any respect, within a sufficient time before the statement was relied upon to have reasonably enabled that general partner to cancel , restate, or amend the certificate or to file a petition for its cancellation, restatement, or amendment under 35-12-605.</p>
<p>SECTION 209. CERTIFICATE OF EXISTENCE OR AUTHORIZATION</p> <p>(a) The [Secretary of State], upon request and payment of the requisite fee, shall furnish a certificate of existence for a limited partnership if the records filed in the [office of the Secretary of State] show that the [Secretary of State] has filed a certificate of limited partnership and has not filed a statement of termination. A certificate of existence must state:</p> <ol style="list-style-type: none"> (1) the limited partnership's name; (2) that it was duly formed under the laws of this State and the date of formation; (3) whether all fees, taxes, and penalties due to the [Secretary of State] under this [Act] or other law have been paid; (4) whether the limited partnership's most recent annual report required by Section 210 has been filed by the [Secretary of State]; (5) whether the [Secretary of State] has administratively dissolved the limited partnership; (6) whether the limited partnership's certificate of limited partnership has been amended to state that the limited partnership is dissolved; (7) that a statement of termination has not been filed by the [Secretary of State]; and (8) other facts of record in the [office of the Secretary of State] which may be requested by the applicant. <p>(b) The [Secretary of State], upon request and payment of the requisite fee, shall furnish a certificate of authorization for a foreign limited partnership if the records filed in the [office of the Secretary of State] show that the [Secretary of State] has filed a certificate of authority, has not revoked the certificate of</p>	

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<p>authority, and has not filed a notice of cancellation. A certificate of authorization must state:</p> <p>(1) the foreign limited partnership's name and any alternate name adopted under Section 905(a) for use in this State;</p> <p>(2) that it is authorized to transact business in this State;</p> <p>(3) whether all fees, taxes, and penalties due to the [Secretary of State] under this [Act] or other law have been paid;</p> <p>(4) whether the foreign limited partnership's most recent annual report required by Section 210 has been filed by the [Secretary of State];</p> <p>(5) that the [Secretary of State] has not revoked its certificate of authority and has not filed a notice of cancellation; and</p> <p>(6) other facts of record in the [office of the Secretary of State] which may be requested by the applicant.</p> <p>(c) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the [Secretary of State] may be relied upon as conclusive evidence that the limited partnership or foreign limited partnership is in existence or is authorized to transact business in this State.</p>	
<p>SECTION 210. ANNUAL REPORT FOR [SECRETARY OF STATE]</p> <p>(a) A limited partnership or a foreign limited partnership authorized to transact business in this State shall deliver to the [Secretary of State] for filing an annual report that states:</p> <p>(1) the name of the limited partnership or foreign limited partnership;</p> <p>(2) the street and mailing address of its designated office and the name and street and mailing address of its agent for service of process in this State;</p> <p>(3) in the case of a limited partnership, the street and mailing address of its principal office; and</p> <p>(4) in the case of a foreign limited partnership, the State or other jurisdiction under whose law the foreign limited partnership is formed and any alternate name adopted under Section 905(a).</p> <p>(b) Information in an annual report must be</p>	

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current as of the date the annual report is delivered to the [Secretary of State] for filing.	
	<p>35-12-610. Term and renewal of certification (1) Certification of a limited partnership is effective for a term of 5 years from the date of filing or renewal of certification. Upon application for renewal of certification on forms furnished by the secretary of state, the certification may be renewed for another 5-year term. (2) Not less than 90 days before the expiration date of certification of a limited partnership, the secretary of state shall notify the listed general partner or partners or specified agent of the pending expiration by addressing a notice to the last-known address of the general partner or partners or specified agent. (3) If the general partner or partners or specified agent fail to file an application for renewal with the secretary of state within a 90-day period prior to the expiration date of the certification, the secretary of state shall cancel the certification. (4) A registration in force on July 1, 1991, expires 5 years from the date of the filing of certification or on July 1, 1992, whichever is later, if renewal of the certification is not effected in the manner provided for in 35-12-601 through 35-12-613.</p>
	<p>35-12-611. Application for renewal of certification. The application for renewal of certification of a limited partnership must be executed and delivered to the secretary of state. The application must include but is not limited to the information required by 35-12-601.</p>
	<p>35-12-612. Filing of application for renewal of certification – issuance of certificate. (1) If the secretary of state finds that the application for renewal of certification of a limited partnership complies with the provisions of this part, the secretary of state shall, when all fees have been paid as provided by rule: (a) endorse on the application the word "filed" and the month, day and year of filing; (b) file the original; and (c) issue a certification letter.</p>

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	(2) The secretary of state shall return to the general partner or partners submitting the application the certification letter.
	<p>35-12-613. Involuntary cancellation of certificate.</p> <p>For a certificate filed prior to July 1, 1991, the secretary of state shall cancel the certificate of limited partnership after July 1, 1992, if the certification is more than 5 years old and not renewed in accordance with this part.</p>
	<p>35-12-615. Filing of facsimile copy.</p> <p>(1) The secretary of state may treat a facsimile copy of a document that is required to be filed under this chapter and the signatures on the facsimile copy in the same manner as an original for purposes of this chapter. If all other requirements are met, the date of filing relates back to the date of receipt of the facsimile copy.</p> <p>(2) A person who files a false document by facsimile copy is liable to the party aggrieved for three times the amount of damages resulting from the filing of the false document.</p>
<p>SECTION 301. BECOMING LIMITED PARTNER</p> <p>A person becomes a limited partner:</p> <p>(1) as provided in the partnership agreement;</p> <p>(2) as the result of a conversion or merger under [Article] 11; or</p> <p>(3) with the consent of all the partners.</p>	<p>35-12-701. Admission of limited partners.</p> <p>(1) A person becomes a limited partner:</p> <p>(a) at the time the limited partnership is formed; or</p> <p>(b) at any later time specified in the partnership agreement for becoming a limited partner.</p> <p>(2) After the filing of a limited partnership's original certificate of limited partnership, a person may be admitted as an additional limited partner:</p> <p>(a) in the case of a person acquiring a partnership interest directly from the limited partnership, upon compliance with the partnership agreement, or, if the partnership agreement does not so provide, upon the</p>

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	<p>written consent of all partners; and</p> <p>(b) in the case of an assignee of a partnership interest of a partner who has the power, as provided in 35-12-1104, to grant the assignee the right to become a limited partner, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power.</p>
<p>SECTION 302. NO RIGHT OR POWER AS LIMITED PARTNER TO BIND LIMITED PARTNERSHIP A limited partner does not have the right or the power as a limited partner to act for or bind the limited partnership.</p>	<p>35-12-702. Voting. Subject to the provisions of 35-12-703, the partnership agreement may grant to all or a specified group of the limited partners the right to vote (on a per capita or any other basis) upon any matter.</p>
<p>SECTION 303. NO LIABILITY AS LIMITED PARTNER FOR LIMITED PARTNERSHIP OBLIGATIONS An obligation of a limited partnership, whether arising in contract, tort, or otherwise, is not the obligation of a limited partner. A limited partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for an obligation of the limited partnership solely by reason of being a limited partner, even if the limited partner participates in the management and control of the limited partnership.</p>	<p>35-12-703. Liability to third parties. (1) Except as provided in subsection (4), a limited partner is not liable for the obligations of a limited partnership unless, in addition to the exercise of the rights and powers as a limited partner, the limited partner participates in the control of the business. However, if the limited partner participates in the control of the business, the limited partner is liable only to persons who transact business with the limited partnership reasonably believing, based on the limited partner's conduct, that the limited partner is a general partner. (2) A limited partner does not participate in the control of the business within the meaning of subsection (1) solely by doing one or more of the following: (a) being a contractor for or an agent or employee of the limited partnership or of a general partner or being an officer, director, or shareholder of a general partner that is a corporation; (b) consulting with and advising a general partner with respect to the business of the limited partnership; (c) acting as surety for the limited partnership or guaranteeing or assuming one or more specific obligations of the limited partnership; (d) taking any action required or permitted by law to bring or pursue a derivative action in the right of the limited partnership; (e) requesting or attending a meeting of partners;</p>

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	<p>(f) proposing, approving, or disapproving, by voting or otherwise, one or more of the following matters:</p> <ul style="list-style-type: none"> (i) the dissolution and winding up of the limited partnership; (ii) the sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all of the assets of the limited partnership; (iii) the incurrence of indebtedness by the limited partnership other than in the ordinary course of its business; (iv) a change in the nature of the business; (v) the admission or removal of a general partner; (vi) the admission or removal of a limited partner; (vii) a transaction involving an actual or potential conflict of interest between a general partner and the limited partnership or the limited partners; (viii) an amendment to the partnership agreement or certificates of limited partnership; or (ix) matters related to the business of the limited partnership not otherwise enumerated in this subsection 2(f) that the partnership states in writing may be subject to the approval or disapproval of limited partners; <p>(g) winding up the limited partnership pursuant to 35-12-1203; or</p> <p>(h) exercise any right or power permitted to limited partners under this chapter and not specifically enumerated in this subsection (2).</p> <p>(3) The enumeration in subsection (2) does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by the limited partner in the business of the limited partnership.</p> <p>(4) A limited partner who knowingly permits the limited partner's name to be used in the name of the limited partnership, except under circumstances permitted by 35-12-505(1)(b)(i) and (1)(b)(ii), is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.</p>
SECTION 304. RIGHT OF LIMITED PARTNER AND FORMER LIMITED PARTNER TO INFORMATION	35-12-705. Right to information.

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<p>(a) On 10 days' demand, made in a record received by the limited partnership, a limited partner may inspect and copy required information during regular business hours in the limited partnership's designated office. The limited partner need not have any particular purpose for seeking the information.</p> <p>(b) During regular business hours and at a reasonable location specified by the limited partnership, a limited partner may obtain from the limited partnership and inspect and copy true and full information regarding the state of the activities and financial condition of the limited partnership and other information regarding the activities of the limited partnership as is just and reasonable if:</p> <p>(1) the limited partner seeks the information for a purpose reasonably related to the partner's interest as a limited partner; (2) the limited partner makes a demand in a record received by the limited partnership, describing with reasonable particularity the information sought and the purpose for seeking the information; and</p> <p>(3) the information sought is directly connected to the limited partner's purpose.</p> <p>(c) Within 10 days after receiving a demand pursuant to subsection (b), the limited partnership in a record shall inform the limited partner that made the demand:</p> <p>(1) what information the limited partnership will provide in response to the demand;</p> <p>(2) when and where the limited partnership will provide the information; and</p> <p>(3) if the limited partnership declines to provide any demanded information, the limited partnership's reasons for declining.</p> <p>(d) Subject to subsection (f), a person dissociated as a limited partner may inspect and copy required information during regular business hours in the limited partnership's designated office if:</p> <p>(1) the information pertains to the period during which the person was a limited partner;</p> <p>(2) the person seeks the information in good faith; and</p> <p>(3) the person meets the requirements of subsection (b).</p> <p>(e) The limited partnership shall respond to a</p>	<p>Each limited partner has the right to:</p> <p>(1) inspect and copy any of the partnership records required by 35-12-508 to be maintained; and</p> <p>(2) obtain from the general partners from time to time upon reasonable demand;</p> <p>(a) true and full information regarding the state of the business and financial condition of the limited partnership;</p> <p>(b) promptly after becoming available, a copy of the limited partnership's federal, state, and local income tax returns for each year; and</p> <p>(c) any other information regarding the affairs of the limited partnership as is just and reasonable.</p>

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<p>demand made pursuant to subsection (d) in the same manner as provided in subsection (c).</p> <p>(f) If a limited partner dies, Section 704 applies.</p> <p>(g) The limited partnership may impose reasonable restrictions on the use of information obtained under this section. In a dispute concerning the reasonableness of a restriction under this subsection, the limited partnership has the burden of proving reasonableness.</p> <p>(h) A limited partnership may charge a person that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.</p> <p>(i) Whenever this [Act] or a partnership agreement provides for a limited partner to give or withhold consent to a matter, before the consent is given or withheld, the limited partnership shall, without demand, provide the limited partner with all information material to the limited partner's decision that the limited partnership knows.</p> <p>(j) A limited partner or person dissociated as a limited partner may exercise the rights under this section through an attorney or other agent. Any restriction imposed under subsection (g) or by the partnership agreement applies both to the attorney or other agent and to the limited partner or person dissociated as a limited partner.</p> <p>(k) The rights stated in this section do not extend to a person as transferee, but may be exercised by the legal representative of an individual under legal disability who is a limited partner or person dissociated as a limited partner.</p>	
<p>SECTION 305. LIMITED DUTIES OF LIMITED PARTNERS</p> <p>(a) A limited partner does not have any fiduciary duty to the limited partnership or to any other partner solely by reason of being a limited partner.</p> <p>(b) A limited partner shall discharge the duties to the partnership and the other partners under this [Act] or under the partnership agreement and exercise any rights consistently with the obligation of good faith</p>	

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<p>and fair dealing.</p> <p>(c) A limited partner does not violate a duty or obligation under this [Act] or under the partnership agreement merely because the limited partner's conduct furthers the limited partner's own interest.</p>	
<p>SECTION 306. PERSON ERRONEOUSLY BELIEVING SELF TO BE LIMITED PARTNER</p> <p>(a) Except as otherwise provided in subsection (b), a person that makes an investment in a business enterprise and erroneously but in good faith believes that the person has become a limited partner in the enterprise is not liable for the enterprise's obligations by reason of making the investment, receiving distributions from the enterprise, or exercising any rights of or appropriate to a limited partner, if, on ascertaining the mistake, the person:</p> <p>(1) causes an appropriate certificate of limited partnership, amendment, or statement of correction to be signed and delivered to the [Secretary of State] for filing; or</p> <p>(2) withdraws from future participation as an owner in the enterprise by signing and delivering to the [Secretary of State] for filing a statement of withdrawal under this section.</p> <p>(b) A person that makes an investment described in subsection (a) is liable to the same extent as a general partner to any third party that enters into a transaction with the enterprise, believing in good faith that the person is a general partner, before the [Secretary of State] files a statement of withdrawal, certificate of limited partnership, amendment, or statement of correction to show that the person is not a general partner.</p> <p>(c) If a person makes a diligent effort in good faith to comply with subsection (a)(1) and is unable to cause the appropriate certificate of limited partnership, amendment, or statement of correction to be signed and delivered to the [Secretary of State] for filing, the person has the right to withdraw from the enterprise pursuant to subsection (a)(2) even if the withdrawal would otherwise breach an agreement with others that are or have agreed to become co-owners of the enterprise.</p>	<p>35-12-704. Person erroneously believing limited partner status.</p> <p>(1) Except as provided in subsection (2), a person who makes a contribution to a business enterprise and erroneously and in good faith believes that the person has become a limited partner in the enterprise is not a general partner in the enterprise and is not bound by its obligations by reason of making the contribution, receiving distributions from the enterprise, or exercising any rights of a limited partner if, on ascertaining the mistake, the person:</p> <p>(a) causes an appropriate certificate of limited partnership or a certificate of amendment to be executed and filed; or</p> <p>(b) withdraws from future equity participation in the enterprise by executing and filing in the office of the secretary of state a certificate declaring withdrawal under this section.</p> <p>(2) Any person who makes a contribution of the kind described in subsection (1) is liable as a general partner to any third party who transacts business with the enterprise before the person withdraws and an appropriate certificate, if any, is filed to show that the person is not a general partner, but in each case only if the third party actually believed in good faith that the person was a general partner at the time of the transaction.</p>

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<p>SECTION 401. BECOMING GENERAL PARTNER A person becomes a general partner:</p> <ul style="list-style-type: none"> (1) as provided in the partnership agreement; (2) under Section 801(3)(B) following the dissociation of a limited partnership's last general partner; (3) as the result of a conversion or merger under [Article] 11; or (4) with the consent of all the partners. 	<p>35-12-801. Admission.</p> <p>After the filing of a limited partnership's original certificate of limited partnership, new general partners may be admitted as provided in writing in the partnership agreement or, if the partnership agreement does not provide in writing for admission of general partners, with the written consent of all partners.</p>
<p>SECTION 402. GENERAL PARTNER AGENT OF LIMITED PARTNERSHIP (a) Each general partner is an agent of the limited partnership for the purposes of its activities. An act of a general partner, including the signing of a record in the partnership's name, for apparently carrying on in the ordinary course the limited partnership's activities or activities of the kind carried on by the limited partnership binds the limited partnership, unless the general partner did not have authority to act for the limited partnership in the particular matter and the person with which the general partner was dealing knew, had received a notification, or had notice under Section 103(d) that the general partner lacked authority. (b) An act of a general partner which is not apparently for carrying on in the ordinary course the limited partnership's activities or activities of the kind carried on by the limited partnership binds the limited partnership only if the act was actually authorized by all the other partners.</p>	
	<p>35-12-802. When person ceases to be general partner of limited partnership.</p> <p>Except as otherwise approved by the specific written consent, at the time, of all partners, a person ceases to be a general partner of a limited partnership on the happening of any of the following events:</p> <ul style="list-style-type: none"> (1) the general partner withdraws from the limited partnership as provided in 35-12-1002. (2) the general partner ceases to be a member of the limited partnership as provided in 35-12-1102; (3) the general partner is removed as a

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	<p>general partner in accordance with the partnership agreement;</p> <p>(4) unless otherwise provided in writing in the partnership agreement, the general partner:</p> <ul style="list-style-type: none"> (a) makes an assignment for the benefit of creditors; (b) files a voluntary petition in bankruptcy; (c) is adjudicated a bankrupt or insolvent; (d) files any petition or answer seeking for the general partner any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law or administrative rule; (e) files any answer or other pleading admitting or failing to contest the material allegations of a petition filed against the general partner in any proceeding of this nature; or (f) seeks, consents to, or acquiesces in the appointment of any trustee, receiver, or liquidator of the general partner or of all or any substantial part of the general partner's properties; <p>(5) unless otherwise provided in writing in the partnership agreement, if, within 120 days after the commencement of any proceeding against the general partner seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or administrative rule, the proceeding has not been dismissed or it, within 90 days after the appointment without the general partner's consent or acquiescence of any trustee, receiver, or liquidator of the general partner or of all or any substantial part of the general partner's properties, the appointment is not vacated or stayed or if, within 90 days after the expiration of any stay, the appointment is not vacated;</p> <p>(6) in the case of a general partner who is a natural person:</p> <ul style="list-style-type: none"> (a) the general partner's death; or (b) the entry by a court of competent jurisdiction adjudicating the general partner incompetent to manage the general partner's person or property; <p>(7) in the case of a general partner who is acting as general partner in the capacity of a trustee of a trust, the termination of the trust</p>

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	<p>(but not merely the substitution of a new trustee);</p> <p>(8) in the case of a general partner that is a partnership, the dissolution and commencement of winding up of the partnership;</p> <p>(9) in the case of a general partner that is a corporation, the filing of a certificate of dissolution or its equivalent for the corporation or the revocation of its charter; and</p> <p>(10) in the case of an estate, the distribution by the fiduciary of all of the estate's interest in the partnership.</p>
<p>SECTION 403. LIMITED PARTNERSHIP LIABLE FOR GENERAL PARTNER'S ACTIONABLE CONDUCT</p> <p>(a) A limited partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a general partner acting in the ordinary course of activities of the limited partnership or with authority of the limited partnership.</p> <p>(b) If, in the course of the limited partnership's activities or while acting with authority of the limited partnership, a general partner receives or causes the limited partnership to receive money or property of a person not a partner, and the money or property is misapplied by a general partner, the limited partnership is liable for the loss.</p>	
<p>SECTION 404. GENERAL PARTNER'S LIABILITY</p> <p>(a) Except as otherwise provided in subsections (b) and (c), all general partners are liable jointly and severally for all obligations of the limited partnership unless otherwise agreed by the claimant or provided by law.</p> <p>(b) A person that becomes a general partner of an existing limited partnership is not personally liable for an obligation of a limited partnership incurred before the person became a general partner.</p> <p>(c) An obligation of a limited partnership incurred while the limited partnership is a limited liability limited partnership, whether arising in contract, tort, or otherwise, is solely the obligation of the limited partnership. A general partner is not personally liable,</p>	<p>35-12-803. General powers and liabilities.</p> <p>(1) Except as otherwise provided in this chapter and in the partnership agreement, a general partner of a limited partnership has all the rights and powers and is subject to all the restrictions of a partner in a partnership without limited partners.</p> <p>(2) Except as otherwise provided in this chapter, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to persons other than the partnership and the other partners. Except as provided in this chapter or in the partnership agreement, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to the partnership and to the</p>

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<p>directly or indirectly, by way of contribution or otherwise, for such an obligation solely by reason of being or acting as a general partner. This subsection applies despite anything inconsistent in the partnership agreement that existed immediately before the consent required to become a limited liability limited partnership under Section 406(b)(2).</p>	<p>other partners.</p>
<p>SECTION 405. ACTIONS BY AND AGAINST PARTNERSHIP AND PARTNERS (a) To the extent not inconsistent with Section 404, a general partner may be joined in an action against the limited partnership or named in a separate action. (b) A judgment against a limited partnership is not by itself a judgment against a general partner. A judgment against a limited partnership may not be satisfied from a general partner's assets unless there is also a judgment against the general partner. (c) A judgment creditor of a general partner may not levy execution against the assets of the general partner to satisfy a judgment based on a claim against the limited partnership, unless the partner is personally liable for the claim under Section 404 and: (1) a judgment based on the same claim has been obtained against the limited partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part; (2) the limited partnership is a debtor in bankruptcy; (3) the general partner has agreed that the creditor need not exhaust limited partnership assets; (4) a court grants permission to the judgment creditor to levy execution against the assets of a general partner based on a finding that limited partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of limited partnership assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or (5) liability is imposed on the general partner by law or contract independent of the existence of the limited partnership.</p>	

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<p>SECTION 406. MANAGEMENT RIGHTS OF GENERAL PARTNER</p> <p>(a) Each general partner has equal rights in the management and conduct of the limited partnership's activities. Except as expressly provided in this [Act], any matter relating to the activities of the limited partnership may be exclusively decided by the general partner or, if there is more than one general partner, by a majority of the general partners.</p> <p>(b) The consent of each partner is necessary to:</p> <p>(1) amend the partnership agreement;</p> <p>(2) amend the certificate of limited partnership to add or, subject to Section 1110, delete a statement that the limited partnership is a limited liability limited partnership; and</p> <p>(3) sell, lease, exchange, or otherwise dispose of all, or substantially all, of the limited partnership's property, with or without the good will, other than in the usual and regular course of the limited partnership's activities.</p> <p>(c) A limited partnership shall reimburse a general partner for payments made and indemnify a general partner for liabilities incurred by the general partner in the ordinary course of the activities of the partnership or for the preservation of its activities or property.</p> <p>(d) A limited partnership shall reimburse a general partner for an advance to the limited partnership beyond the amount of capital the general partner agreed to contribute.</p> <p>(e) A payment or advance made by a general partner which gives rise to an obligation of the limited partnership under subsection (c) or (d) constitutes a loan to the limited partnership which accrues interest from the date of the payment or advance.</p> <p>(f) A general partner is not entitled to remuneration for services performed for the partnership.</p>	
	<p>35-12-805. Voting.</p> <p>The partnership agreement may grant to all or a specified group of general partners the right to vote (on a per capita or any other basis), separately or with all or any class of the limited partners, on any matter.</p>

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<p>SECTION 407. RIGHT OF GENERAL PARTNER AND FORMER GENERAL PARTNER TO INFORMATION</p> <p>(a) A general partner, without having any particular purpose for seeking the information, may inspect and copy during regular business hours:</p> <p>(1) in the limited partnership's designated office, required information; and</p> <p>(2) at a reasonable location specified by the limited partnership, any other records maintained by the limited partnership regarding the limited partnership's activities and financial condition.</p> <p>(b) Each general partner and the limited partnership shall furnish to a general partner:</p> <p>(1) without demand, any information concerning the limited partnership's activities and activities reasonably required for the proper exercise of the general partner's rights and duties under the partnership agreement or this [Act]; and</p> <p>(2) on demand, any other information concerning the limited partnership's activities, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.</p> <p>(c) Subject to subsection (e), on 10 days' demand made in a record received by the limited partnership, a person dissociated as a general partner may have access to the information and records described in subsection (a) at the location specified in subsection</p> <p>(a) if:</p> <p>(1) the information or record pertains to the period during which the person was a general partner;</p> <p>(2) the person seeks the information or record in good faith; and</p> <p>(3) the person satisfies the requirements imposed on a limited partner by Section 304(b).</p> <p>(d) The limited partnership shall respond to a demand made pursuant to subsection (c) in the same manner as provided in Section 304(c).</p> <p>(e) If a general partner dies, Section 704 applies.</p>	<p>35-12-705. Right to information.</p> <p>Each limited partner has the right to:</p> <p>(1) inspect and copy any of the partnership records required by 35-12-508 to be maintained; and</p> <p>(2) obtain from the general partners from time to time upon reasonable demand:</p> <p>(a) true and full information regarding the state of the business and financial condition of the limited partnership;</p> <p>(b) promptly after becoming available, a copy of the limited partnership's federal, state, and local income tax returns for each year; and</p> <p>(c) any other information regarding the affairs of the limited partnership as is just and reasonable.</p>

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<p>(f) The limited partnership may impose reasonable restrictions on the use of information under this section. In any dispute concerning the reasonableness of a restriction under this subsection, the limited partnership has the burden of proving reasonableness.</p> <p>(g) A limited partnership may charge a person dissociated as a general partner that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.</p> <p>(h) A general partner or person dissociated as a general partner may exercise the rights under this section through an attorney or other agent. Any restriction imposed under subsection (f) or by the partnership agreement applies both to the attorney or other agent and to the general partner or person dissociated as a general partner.</p> <p>(i) The rights under this section do not extend to a person as transferee, but the rights under subsection (c) of a person dissociated as a general may be exercised by the legal representative of an individual who dissociated as a general partner under Section 603(7)(B) or (C).</p>	
<p>SECTION 408. GENERAL STANDARDS OF GENERAL PARTNER'S CONDUCT</p> <p>(a) The only fiduciary duties that a general partner has to the limited partnership and the other partners are the duties of loyalty and care under subsections (b) and (c).</p> <p>(b) A general partner's duty of loyalty to the limited partnership and the other partners is limited to the following:</p> <p>(1) to account to the limited partnership and hold as trustee for it any property, profit, or benefit derived by the general partner in the conduct and winding up of the limited partnership's activities or derived from a use by the general partner of limited partnership property, including the appropriation of a limited partnership opportunity;</p> <p>(2) to refrain from dealing with the limited partnership in the conduct or winding up of the limited partnership's activities as or on behalf of a party having an interest adverse to the limited partnership; and</p> <p>(3) to refrain from competing with the limited</p>	

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<p>partnership in the conduct or winding up of the limited partnership's activities.</p> <p>(c) A general partner's duty of care to the limited partnership and the other partners in the conduct and winding up of the limited partnership's activities is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.</p> <p>(d) A general partner shall discharge the duties to the partnership and the other partners under this [Act] or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.</p> <p>(e) A general partner does not violate a duty or obligation under this [Act] or under the partnership agreement merely because the general partner's conduct furthers the general partner's own interest.</p>	
<p>SECTION 501. FORM OF CONTRIBUTION</p> <p>A contribution of a partner may consist of tangible or intangible property or other benefit to the limited partnership, including money, services performed, promissory notes, other agreements to contribute cash or property, and contracts for services to be performed.</p>	<p>35-12-804. Contributions by a general partner.</p> <p>A general partner may make contributions to a limited partnership and share in the profits and losses of and in distributions from the limited partnership as a general partner. A general partner may also make contributions to and share in profits, losses, and distributions as a limited partner. A person who is both a general partner and a limited partner has all the rights and powers and is subject to all the restrictions and liabilities of a general partner and also has, except as otherwise provided in the partnership agreement, all powers and is subject to the restrictions of a limited partner to the extent he is participating in the partnership as a limited partner.</p> <p>35-12-901. Form of contributions.</p> <p>The contribution of a partner may be in cash, property, or services rendered or a promissory note or other obligation to contribute cash or property or to perform services.</p>
<p>SECTION 502. LIABILITY FOR CONTRIBUTION</p> <p>(a) A partner's obligation to contribute money or other property or other benefit to, or to perform services for, a limited partnership is</p>	<p>35-12-902. Liability for contributions.</p> <p>(1) A promise by a limited partner to</p>

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<p>not excused by the partner's death, disability, or other inability to perform personally.</p> <p>(b) If a partner does not make a promised non-monetary contribution, the partner is obligated at the option of the limited partnership to contribute money equal to that portion of the value, as stated in the required information, of the stated contribution which has not been made.</p> <p>(c) The obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this [Act] may be compromised only by consent of all partners. A creditor of a limited partnership which extends credit or otherwise acts in reliance on an obligation described in subsection (a), without notice of any compromise under this subsection, may enforce the original obligation.</p>	<p>contribute to the limited partnership is not enforceable unless set out in a writing signed by the limited partner.</p> <p>(2) Except as otherwise provided in the partnership agreement, a partner is liable to the limited partnership for any enforceable promise to contribute cash or property or to perform services regardless of whether the partner is personally unable to perform because of disability, death, or any other reason. If a partner does not make the required contribution of property or services, the partner is obligated at the option of the limited partnership to contribute cash equal to that portion of the value, as stated in the partnership records required to be kept pursuant to 35-12-508, of the stated contribution that has not been made.</p> <p>(3) Unless otherwise provided in the partnership agreement, the obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all of the partners. Notwithstanding in a compromise so authorized, a creditor of a limited partnership who extends credit or otherwise acts in reliance on that obligation after the partner signs a writing that, in either case, reflects the obligation and before the amendment or cancellation to reflect the compromise may enforce the precompromise obligation.</p>
<p>SECTION 503. SHARING OF DISTRIBUTIONS</p> <p>A distribution by a limited partnership must be shared among the partners on the basis of the value, as stated in the required records when the limited partnership decides to make the distribution, of the contributions the limited partnership has received from each partner.</p>	<p>35-12-903. Allocation of profits and losses.</p> <p>The profits and losses of a limited partnership must be allocated among the partners and among classes of partners in the manner provided in writing in the partnership agreement. If the partnership agreement does not provide for the allocation in writing, profits and losses must be allocated on the basis of the value, as stated in the partnership records required to be kept pursuant to 35-12-508, of the contributions actually made by each partner to the extent they have not been</p>

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	<p>returned.</p> <p>35-12-904. Allocation of distributions.</p> <p>Distributions of cash or other assets of a limited partnership must be allocated among the partners and among classes of partners in the manner provided in writing in the partnership agreement. If the partnership agreement does not provide for the allocation in writing, distributions must be made on the basis of the value, as stated in the partnership records required to be kept pursuant to 35-12-508, of the contributions actually made by each partner to the extent they have not been returned.</p>
<p>SECTION 504. INTERIM DISTRIBUTIONS A partner does not have a right to any distribution before the dissolution and winding up of the limited partnership unless the limited partnership decides to make an interim distribution.</p>	<p>35-12-1001. Interim distributions.</p> <p>Except as otherwise provided in 35-12-1001 through 35-12-1008, a partner is entitled to receive distributions from a limited partnership before the dissolution and winding up to the extent and at the times or on the happening of the events specified in the partnership agreement.</p>
<p>SECTION 505. NO DISTRIBUTION ON ACCOUNT OF DISSOCIATION A person does not have a right to receive a distribution on account of dissociation.</p>	
<p>SECTION 506. DISTRIBUTION IN KIND A partner does not have a right to demand or receive any distribution from a limited partnership in any form other than cash. Subject to Section 812(b), a limited partnership may distribute an asset in kind to the extent each partner receives a percentage of the asset equal to the partner's share of distributions.</p>	<p>35-12-1005. Distributions in kind.</p> <p>Except as provided in writing in the partnership agreement, a partner, regardless of the nature of the partner's contribution, has no right to demand and receive any distribution from a limited partnership in any form other than cash. Except as provided in writing in the partnership agreement, a partner may not be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to the partner exceeds a percentage of that asset that is equal to the percentage in which the partner shares in distributions from the limited partnership.</p>

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<p>SECTION 507. RIGHT TO DISTRIBUTION When a partner or transferee becomes entitled to receive a distribution, the partner or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution. However, the limited partnership's obligation to make a distribution is subject to offset for any amount owed to the limited partnership by the partner or dissociated partner on whose account the distribution is made.</p>	<p>35-12-1006. Right to distributions. At the time a partner becomes entitled to receive a distribution, he has the status of and is entitled to all of the remedies available to the creditor of the limited partnership with respect to the distribution.</p>
<p>SECTION 508. LIMITATIONS ON DISTRIBUTION (a) A limited partnership may not make a distribution in violation of the partnership agreement. (b) A limited partnership may not make a distribution if after the distribution: (1) the limited partnership would not be able to pay its debts as they become due in the ordinary course of the limited partnership's activities; or (2) the limited partnership's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the limited partnership were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of partners whose preferential rights are superior to those of persons receiving the distribution. (c) A limited partnership may base a determination that a distribution is not prohibited under subsection (b) on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances. (d) Except as otherwise provided in subsection (g), the effect of a distribution under subsection (b) is measured: (1) in the case of distribution by purchase, redemption, or other acquisition of a transferable interest in the limited partnership, as of the date money or other property is transferred or debt incurred by the limited p (A) the distribution is authorized, if the payment occurs within 120 days after that</p>	<p>35-12-1007. Limitations on distributions. A partner may not receive a distribution from a limited partnership to the extent that, after giving effect to the distribution, all liabilities of the limited partnership other than liabilities to partners on account of their partnership interests exceed the fair value of the partnership's assets.</p>

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<p>date; or partnership; and</p> <p>(2) in all other cases, as of the date:</p> <p>(B) the payment is made, if payment occurs more than 120 days after the distribution is authorized.</p> <p>(e) A limited partnership's indebtedness to a partner incurred by reason of a distribution made in accordance with this section is at parity with the limited partnership's indebtedness to its general, unsecured creditors.</p> <p>(f) A limited partnership's indebtedness, including indebtedness issued in connection with or as part of a distribution, is not considered a liability for purposes of subsection (b) if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could then be made to partners under this section.</p> <p>(g) If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.</p>	
	<p>35-12-1008. Liability upon return of contributions.</p> <p>(1) If a partner has received the return of any part of the partner's contribution without violation of the partnership agreement or this chapter, for a period of 1 year after the return, the partner is liable to the limited partnership for the amount of the contribution returned, but only to the extent necessary to discharge the limited partnership's liabilities to creditors who extended credit to the limited partnership during the period the contribution was held by the partnership.</p> <p>(2) If a partner has received the return of any part of the partner's contribution in violation of the partnership agreement or this chapter, for a period of 6 years after the return, the partner is liable to the limited partnership for the amount of the contribution wrongfully returned.</p>

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	<p>(3) A partner has received a return of the partner's contribution to the extent that a distribution to the partner reduces the partner's share of the fair value of the net assets of the limited partnership below the value, as set forth in the partnership records required to be kept pursuant to 35-12-508, of the partner's contributions that have not been distributed to the partner.</p>
<p>SECTION 509. LIABILITY FOR IMPROPER DISTRIBUTIONS (a) A general partner that consents to a distribution made in violation of Section 508 is personally liable to the limited partnership for the amount of the distribution which exceeds the amount that could have been distributed without the violation if it is established that in consenting to the distribution the general partner failed to comply with Section 408. (b) A partner or transferee that received a distribution knowing that the distribution to that partner or transferee was made in violation of Section 508 is personally liable to the limited partnership but only to the extent that the distribution received by the partner or transferee exceeded the amount that could have been properly paid under Section 508. (c) A general partner against which an action is commenced under subsection (a) may: (1) implead in the action any other person that is liable under subsection (a) and compel contribution from the person; and (2) implead in the action any person that received a distribution in violation of subsection (b) and compel contribution from the person in the amount the person received in violation of subsection (b). (d) An action under this section is barred if it is not commenced within two years after the distribution.</p>	
<p>SECTION 601. DISSOCIATION AS LIMITED PARTNER (a) A person does not have a right to dissociate as a limited partner before the termination of the limited partnership. (b) A person is dissociated from a limited partnership as a limited partner upon the occurrence of any of the following events:</p>	<p>35-12-1003. Withdrawal of limited partner. A limited partner may withdraw from a limited partnership at the time or on the happening of the events specified in writing in the partnership agreement. If the partnership agreement does not specify the time or the events on the happening of which a limited</p>

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<p>(1) the limited partnership's having notice of the person's express will to withdraw as a limited partner or on a later date specified by the person;</p> <p>(2) an event agreed to in the partnership agreement as causing the person's dissociation as a limited partner;</p> <p>(3) the person's expulsion as a limited partner pursuant to the partnership agreement;</p> <p>(4) the person's expulsion as a limited partner by the unanimous consent of the other partners if:</p> <p>(A) it is unlawful to carry on the limited partnership's activities with the person as a limited partner;</p> <p>(B) there has been a transfer of all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, which has not been foreclosed;</p> <p>(C) the person is a corporation and, within 90 days after the limited partnership notifies the person that it will be expelled as a limited partner because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or</p> <p>(D) the person is a limited liability company or partnership that has been dissolved and whose business is being wound up;</p> <p>(5) on application by the limited partnership, the person's expulsion as a limited partner by judicial order because:</p> <p>(A) the person engaged in wrongful conduct that adversely and materially affected the limited partnership's activities;</p> <p>(B) the person willfully or persistently committed a material breach of the partnership agreement or of the obligation of good faith and fair dealing under Section 305(b); or</p> <p>(C) the person engaged in conduct relating to the limited partnership's activities which makes it not reasonably practicable to carry on the activities with the person as limited</p>	<p>partner may withdraw, a limited partner may not withdraw prior to the time of the dissolution and winding up of the limited partnership.</p>

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<p>partner;</p> <p>(6) in the case of a person who is an individual, the person's death;</p> <p>(7) in the case of a person that is a trust or is acting as a limited partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor trustee;</p> <p>(8) in the case of a person that is an estate or is acting as a limited partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor personal representative;</p> <p>(9) termination of a limited partner that is not an individual, partnership, limited liability company, corporation, trust, or estate;</p> <p>(10) the limited partnership's participation in a conversion or merger under [Article] 11, if the limited partnership:</p> <p>(A) is not the converted or surviving entity; or</p> <p>(B) is the converted or surviving entity but, as a result of the conversion or merger, the person ceases to be a limited partner.</p>	
<p>SECTION 602. EFFECT OF DISSOCIATION AS LIMITED PARTNER</p> <p>(a) Upon a person's dissociation as a limited partner:</p> <p>(1) subject to Section 704, the person does not have further rights as a limited partner;</p> <p>(2) the person's obligation of good faith and fair dealing as a limited partner under Section 305(b) continues only as to matters arising and events occurring before the dissociation; and</p> <p>(3) subject to Section 704 and [Article] 11, any transferable interest owned by the person in the person's capacity as a limited partner immediately before dissociation is owned by the person as a mere transferee.</p> <p>(b) A person's dissociation as a limited partner does not of itself discharge the person from any obligation to the limited partnership or the other partners which the person incurred while a limited partner.</p>	<p>35-12-1004. Distributions upon withdrawal.</p> <p>Upon withdrawal any withdrawing partner is entitled to receive any distributions to which the partner is entitled under the partnership agreement and, if not provided, the partner is entitled to receive, within a reasonable time after withdrawal, the fair value of the partner's interest in the limited partnership as of the date of withdrawal, based upon the partner's right to share in distributions from the limited partnership.</p>
<p>SECTION 603. DISSOCIATION AS GENERAL PARTNER</p>	<p>35-12-1002. Withdrawal of general partner.</p>

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<p>A person is dissociated from a limited partnership as a general partner upon the occurrence of any of the following events:</p> <ul style="list-style-type: none"> (1) the limited partnership's having notice of the person's express will to withdraw as a general partner or on a later date specified by the person; (2) an event agreed to in the partnership agreement as causing the person's dissociation as a general partner; (3) the person's expulsion as a general partner pursuant to the partnership agreement; (4) the person's expulsion as a general partner by the unanimous consent of the other partners if: <ul style="list-style-type: none"> (A) it is unlawful to carry on the limited partnership's activities with the person as a general partner; (B) there has been a transfer of all or substantially all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, which has not been foreclosed; (C) the person is a corporation and, within 90 days after the limited partnership notifies the person that it will be expelled as a general partner because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or (D) the person is a limited liability company or partnership that has been dissolved and whose business is being wound up; (5) on application by the limited partnership, the person's expulsion as a general partner by judicial determination because: <ul style="list-style-type: none"> (A) the person engaged in wrongful conduct that adversely and materially affected the limited partnership activities; (B) the person willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under Section 408; or (C) the person engaged in conduct relating 	<p>A general partner may withdraw from a limited partnership at any time by giving written notice to the other partners, but if the withdrawal violates the partnership agreement, the limited partnership may recover from the withdrawing general partner damages for breach of the partnership agreement and offset the damages against the amount otherwise distributable to him.</p>

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<p>to the limited partnership's activities which makes it not reasonably practicable to carry on the activities of the limited partnership with the person as a general partner;</p> <p>(6) the person's:</p> <p>(A) becoming a debtor in bankruptcy;</p> <p>(B) execution of an assignment for the benefit of creditors;</p> <p>(C) seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property; or</p> <p>(D) failure, within 90 days after the appointment, to have vacated or stayed the appointment of a trustee, receiver, or liquidator of the general partner or of all or substantially all of the person's property obtained without the person's consent or acquiescence, or failing within 90 days after the expiration of a stay to have the appointment vacated;</p> <p>(7) in the case of a person who is an individual:</p> <p>(A) the person's death;</p> <p>(B) the appointment of a guardian or general conservator for the person; or</p> <p>(C) a judicial determination that the person has otherwise become incapable of performing the person's duties as a general partner under the partnership agreement;</p> <p>(8) in the case of a person that is a trust or is acting as a general partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor trustee;</p> <p>(9) in the case of a person that is an estate or is acting as a general partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor personal representative;</p> <p>(10) termination of a general partner that is not an individual, partnership, limited liability company, corporation, trust, or estate; or</p> <p>(11) the limited partnership's participation in a conversion or merger under [Article] 11, if the limited partnership:</p>	

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<p>(A) is not the converted or surviving entity; or (B) is the converted or surviving entity but, as a result of the conversion or merger, the person ceases to be a general partner.</p>	
<p>SECTION 604. PERSON'S POWER TO DISSOCIATE AS GENERAL PARTNER; WRONGFUL DISSOCIATION (a) A person has the power to dissociate as a general partner at any time, rightfully or wrongfully, by express will pursuant to Section 603(1). (b) A person's dissociation as a general partner is wrongful only if: (1) it is in breach of an express provision of the partnership agreement; or (2) it occurs before the termination of the limited partnership, and: (A) the person withdraws as a general partner by express will; (B) the person is expelled as a general partner by judicial determination under Section 603(5); (C) the person is dissociated as a general partner by becoming a debtor in bankruptcy; or (D) in the case of a person that is not an individual, trust other than a business trust, or estate, the person is expelled or otherwise dissociated as a general partner because it willfully dissolved or terminated. (c) A person that wrongfully dissociates as a general partner is liable to the limited partnership and, subject to Section 1001, to the other partners for damages caused by the dissociation. The liability is in addition to any other obligation of the general partner to the limited partnership or to the other partners.</p>	
<p>SECTION 605. EFFECT OF DISSOCIATION AS GENERAL PARTNER (a) Upon a person's dissociation as a general partner: (1) the person's right to participate as a general partner in the management and conduct of the partnership's activities terminates; (2) the person's duty of loyalty as a general partner under Section 408(b)(3) terminates; (3)</p>	

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<p>the person's duty of loyalty as a general partner under Section 408(b)(1) and (2) and duty of care under Section 408(c) continue only with regard to matters arising and events occurring before the person's dissociation as a general partner;</p> <p>(4) the person may sign and deliver to the [Secretary of State] for filing a statement of dissociation pertaining to the person and, at the request of the limited partnership, shall sign an amendment to the certificate of limited partnership which states that the person has dissociated; and</p> <p>(5) subject to Section 704 and [Article] 11, any transferable interest owned by the person immediately before dissociation in the person's capacity as a general partner is owned by the person as a mere transferee.</p> <p>(b) A person's dissociation as a general partner does not of itself discharge the person from any obligation to the limited partnership or the other partners which the person incurred while a general partner.</p>	
<p>SECTION 606. POWER TO BIND AND LIABILITY TO LIMITED PARTNERSHIP BEFORE DISSOLUTION OF PARTNERSHIP OF PERSON DISSOCIATED AS GENERAL PARTNER</p> <p>(a) After a person is dissociated as a general partner and before the limited partnership is dissolved, converted under [Article] 11, or merged out of existence under [Article 11], the limited partnership is bound by an act of the person only if:</p> <p>(1) the act would have bound the limited partnership under Section 402 before the dissociation; and</p> <p>(2) at the time the other party enters into the transaction:</p> <p>(A) less than two years has passed since the dissociation; and (B) the other party does not have notice of the dissociation and reasonably believes that the person is a general partner.</p> <p>(b) If a limited partnership is bound under subsection (a), the person dissociated as a general partner which caused the limited partnership to be bound is liable:</p> <p>(1) to the limited partnership for any damage caused to the limited partnership arising from</p>	

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<p>the obligation incurred under subsection (a); and</p> <p>(2) if a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability.</p>	
<p>SECTION 607. LIABILITY TO OTHER PERSONS OF PERSON DISSOCIATED AS GENERAL PARTNER</p> <p>(a) A person's dissociation as a general partner does not of itself discharge the person's liability as a general partner for an obligation of the limited partnership incurred before dissociation. Except as otherwise provided in subsections (b) and (c), the person is not liable for a limited partnership's obligation incurred after dissociation.</p> <p>(b) A person whose dissociation as a general partner resulted in a dissolution and winding up of the limited partnership's activities is liable to the same extent as a general partner under Section 404 on an obligation incurred by the limited partnership under Section 804.</p> <p>(c) A person that has dissociated as a general partner but whose dissociation did not result in a dissolution and winding up of the limited partnership's activities is liable on a transaction entered into by the limited partnership after the dissociation only if:</p> <p>(1) a general partner would be liable on the transaction; and</p> <p>(2) at the time the other party enters into the transaction:</p> <p>(A) less than two years has passed since the dissociation; and</p> <p>(B) the other party does not have notice of the dissociation and reasonably believes that the person is a general partner.</p> <p>(d) By agreement with a creditor of a limited partnership and the limited partnership, a person dissociated as a general partner may be released from liability for an obligation of the limited partnership.</p> <p>(e) A person dissociated as a general partner is released from liability for an obligation of the limited partnership if the limited partnership's creditor, with notice of the person's dissociation as a general partner but</p>	

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without the person's consent, agrees to a material alteration in the nature or time of payment of the obligation.	
<p>SECTION 701. PARTNER'S TRANSFERABLE INTEREST</p> <p>The only interest of a partner which is transferable is the partner's transferable interest. A transferable interest is personal property.</p>	<p>35-12-1101. Nature of partnership interest.</p> <p>A partnership interest is a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets. A partnership interest is personal property.</p>
<p>SECTION 702. TRANSFER OF PARTNER'S TRANSFERABLE INTEREST</p> <p>(a) A transfer, in whole or in part, of a partner's transferable interest:</p> <p>(1) is permissible;</p> <p>(2) does not by itself cause the partner's dissociation or a dissolution and winding up of the limited partnership's activities; and (3) does not, as against the other partners or the limited partnership, entitle the transferee to participate in the management or conduct of the limited partnership's activities, to require access to information concerning the limited partnership's transactions except as otherwise provided in subsection (c), or to inspect or copy the required information or the limited partnership's other records.</p> <p>(b) A transferee has a right to receive, in accordance with the transfer:</p> <p>(1) distributions to which the transferor would otherwise be entitled; and</p> <p>(2) upon the dissolution and winding up of the limited partnership's activities the net amount otherwise distributable to the transferor.</p> <p>(c) In a dissolution and winding up, a transferee is entitled to an account of the limited partnership's transactions only from the date of dissolution.</p> <p>(d) Upon transfer, the transferor retains the rights of a partner other than the interest in distributions transferred and retains all duties and obligations of a partner.</p> <p>(e) A limited partnership need not give effect to a transferee's rights under this section until the limited partnership has notice of the transfer.</p> <p>(f) A transfer of a partner's transferable interest in the limited partnership in violation of</p>	<p>35-12-1102. Assignment of partnership interest.</p> <p>Except as otherwise provided in the partnership agreement, a partnership interest is assignable in whole or in part. An assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become a partner or to exercise any of the rights thereof. An assignment only entitles the assignee to receive, to the extent assigned, any distributions to which the assignor would be entitled. Except as otherwise provided in the partnership agreement, a partner ceases to be a partner upon assignment of all his partnership interest.</p>

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<p>a restriction on transfer contained in the partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer.</p> <p>(g) A transferee that becomes a partner with respect to a transferable interest is liable for the transferor's obligations under Sections 502 and 509. However, the transferee is not obligated for liabilities unknown to the transferee at the time the transferee became a partner.</p>	
<p>SECTION 703. RIGHTS OF CREDITOR OF PARTNER OR TRANSFeree</p> <p>(a) On application to a court of competent jurisdiction by any judgment creditor of a partner or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of a transferee. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.</p> <p>(b) A charging order constitutes a lien on the judgment debtor's transferable interest. The court may order a foreclosure upon the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.</p> <p>(c) At any time before foreclosure, an interest charged may be redeemed:</p> <ol style="list-style-type: none"> (1) by the judgment debtor; (2) with property other than limited partnership property, by one or more of the other partners; or (3) with limited partnership property, by the limited partnership with the consent of all partners whose interests are not so charged. <p>(d) This [Act] does not deprive any partner or transferee of the benefit of any exemption laws applicable to the partner's or transferee's transferable interest.</p>	<p>35-12-1103. Rights of creditors.</p> <p>On due application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment debt, with interest thereon. To the extent so charged, the judgment creditor has only the rights of an assignee of the partnership interest. This chapter does not deprive any partner of the benefit of any exemption laws applicable to his partnership interest.</p> <p>35-12-1104. Right of assignee to become limited partner.</p> <p>(1) An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner if and to the extent that:</p> <ol style="list-style-type: none"> (a) the assignor gives the assignee that right in accordance with authority described in the partnership agreement; or (b) in the absence of that authority, all other partners consent. <p>(2) An assignee who has become a limited partner has, to the extent assigned, all the rights and powers and is subject to all the restrictions and liabilities of a limited partner under the partnership agreement and this chapter. An assignee who becomes a limited partner is also liable for the obligations of the</p>

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<p>(e) This section provides the exclusive remedy by which a judgment creditor of a partner or transferee may satisfy a judgment out of the judgment debtor's transferable interest.</p>	<p>partner's assignor to make and return contributions as provided in 35-12-1001 through 35-12-1008, but the assignee is not obligated for liabilities unknown to the assignee at the time the assignee became a limited partner.</p> <p>(3) If an assignee of a partnership interest becomes a limited partner, the assignor is not released from the liability to the limited partnership under 35-12-607 and 35-12-902.</p>
<p>SECTION 704. POWER OF ESTATE OF DECEASED PARTNER If a partner dies, the deceased partner's personal representative or other legal representative may exercise the rights of a transferee as provided in Section 702 and, for the purposes of settling the estate, may exercise the rights of a current limited partner under Section 304.</p>	<p>35-12-1105. Power of estate of deceased or incompetent partner. If a partner who is a natural person dies or a court of competent jurisdiction adjudges him to be incompetent to manage his person or his property, the partner's personal representative, guardian, conservator, or other legal representative may exercise all of the partner's rights for the purpose of settling his estate or administering his property, including any power the partner had to give an assignee the right to become a limited partner. If a partner that is a corporation, trust, or other entity other than a natural person is dissolved or terminated, those powers may be exercised by the legal representative or successor of the partner.</p>
<p>SECTION 801. NONJUDICIAL DISSOLUTION Except as otherwise provided in Section 802, a limited partnership is dissolved, and its activities must be wound up, only upon the occurrence of any of the following: (1) the happening of an event specified in the partnership agreement; (2) the consent of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective; (3) after the dissociation of a person as a general partner: (A) if the limited partnership has at least one remaining general partner, the consent to dissolve the limited partnership given within 90 days after the dissociation by partners owning a majority of the rights to receive distributions as partners at the time the consent is to be effective; or (B) if the limited partnership does not have a</p>	<p>35-12-1201. Nonjudicial dissolution. A limited partnership is dissolved and its affairs must be wound up on the occurrence of the first of the following: (1) at the time or on the happening of the events specified in writing in the partnership agreement; (2) on the unanimous written consent of all partners; (3) on the happening of an event of a withdrawal of a general partner unless at the time there is at least one other general partner and the written provisions of the partnership agreement permits the business of the limited partnership to be carried on by the remaining general partner and the remaining general partner does so, but the limited partnership</p>

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<p>remaining general partner, the passage of 90 days after the dissociation, unless before the end of the period:</p> <p>(i) consent to continue the activities of the limited partnership and admit at least one general partner is given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective; and</p> <p>(ii) at least one person is admitted as a general partner in accordance with the consent;</p> <p>(4) the passage of 90 days after the dissociation of the limited partnership's last limited partner, unless before the end of the period the limited partnership admits at least one limited partner; or</p> <p>(5) the signing and filing of a declaration of dissolution by the [Secretary of State] under Section 809(c).</p>	<p>may not be dissolved or wound up by reason of any event of withdrawal if, within 90 days after the withdrawal, all partners agree in writing to continue the business of the limited partnership and to the appointment of one or more new general partners if necessary or desired; or</p> <p>(4) on entry of a decree of judicial dissolution in accordance with 35-12-1202.</p>
<p>SECTION 802. JUDICIAL DISSOLUTION</p> <p>On application by a partner the [appropriate court] may order dissolution of a limited partnership if it is not reasonably practicable to carry on the activities of the limited partnership in conformity with the partnership agreement.</p>	<p>35-12-1202. Dissolution by decree of court.</p> <p>On application by or for a partner, the district court may decree a dissolution of a limited partnership whenever it is not reasonably practicable to carry on the business in conformity with the partnership agreement.</p>
<p>SECTION 803. WINDING UP</p> <p>(a) A limited partnership continues after dissolution only for the purpose of winding up its activities.</p> <p>(b) In winding up its activities, the limited partnership:</p> <p>(1) may amend its certificate of limited partnership to state that the limited partnership is dissolved, preserve the limited partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, transfer the limited partnership's property, settle disputes by mediation or arbitration, file a statement of termination as provided in Section 203, and perform other necessary acts; and</p> <p>(2) shall discharge the limited partnership's liabilities, settle and close the limited partnership's activities, and marshal and</p>	<p>35-12-1203. Winding up.</p> <p>Unless otherwise provided in the partnership agreement, the general partners who have not wrongfully dissolved the limited partnership or, if none, the limited partners may wind up the limited partnership's affairs; but any partner, his legal representative, or his assignee, upon cause shown, may obtain winding up by the district court.</p>

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<p>distribute the assets of the partnership.</p> <p>(c) If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership's activities may be appointed by the consent of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective. A person appointed under this subsection:</p> <p>(1) has the powers of a general partner under Section 804; and</p> <p>(2) shall promptly amend the certificate of limited partnership to state:</p> <p>(A) that the limited partnership does not have a general partner;</p> <p>(B) the name of the person that has been appointed to wind up the limited partnership; and</p> <p>(C) the street and mailing address of the person.</p> <p>(d) On the application of any partner, the [appropriate court] may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited partnership's activities, if:</p> <p>(1) a limited partnership does not have a general partner and within a reasonable time following the dissolution no person has been appointed pursuant to subsection (c); or</p> <p>(2) the applicant establishes other good cause.</p>	
<p>SECTION 804. POWER OF GENERAL PARTNER AND PERSON DISSOCIATED AS GENERAL PARTNER TO BIND PARTNERSHIP AFTER DISSOLUTION</p> <p>(a) A limited partnership is bound by a general partner's act after dissolution which:</p> <p>(1) is appropriate for winding up the limited partnership's activities; or</p> <p>(2) would have bound the limited partnership under Section 402 before dissolution, if, at the time the other party enters into the transaction, the other party does not have notice of the dissolution.</p> <p>(b) A person dissociated as a general partner binds a limited partnership through an act occurring after dissolution if:</p> <p>(1) at the time the other party enters into the transaction:</p>	

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<p>(A) less than two years has passed since the dissociation; and</p> <p>(B) the other party does not have notice of the dissociation and reasonably believes that the person is a general partner; and</p> <p>(2) the act:</p> <p>(A) is appropriate for winding up the limited partnership's activities; or</p> <p>(B) would have bound the limited partnership under Section 402 before dissolution and at the time the other party enters into the transaction the other party does not have notice of the dissolution.</p>	
<p>SECTION 805. LIABILITY AFTER DISSOLUTION OF GENERAL PARTNER AND PERSON DISSOCIATED AS GENERAL PARTNER TO LIMITED PARTNERSHIP, OTHER GENERAL PARTNERS, AND PERSONS DISSOCIATED AS GENERAL PARTNER</p> <p>(a) If a general partner having knowledge of the dissolution causes a limited partnership to incur an obligation under Section 804(a) by an act that is not appropriate for winding up the partnership's activities, the general partner is liable:</p> <p>(1) to the limited partnership for any damage caused to the limited partnership arising from the obligation; and</p> <p>(2) if another general partner or a person dissociated as a general partner is liable for the obligation, to that other general partner or person for any damage caused to that other general partner or person arising from the liability.</p> <p>(b) If a person dissociated as a general partner causes a limited partnership to incur an obligation under Section 804(b), the person is liable:</p> <p>(1) to the limited partnership for any damage caused to the limited partnership arising from the obligation; and</p> <p>(2) if a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability.</p>	
<p>SECTION 806. KNOWN CLAIMS AGAINST</p>	

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<p>DISSOLVED LIMITED PARTNERSHIP</p> <p>(a) A dissolved limited partnership may dispose of the known claims against it by following the procedure described in subsection (b).</p> <p>(b) A dissolved limited partnership may notify its known claimants of the dissolution in a record. The notice must:</p> <ol style="list-style-type: none"> (1) specify the information required to be included in a claim; (2) provide a mailing address to which the claim is to be sent; (3) state the deadline for receipt of the claim, which may not be less than 120 days after the date the notice is received by the claimant; (4) state that the claim will be barred if not received by the deadline; and (5) unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on Section 404. <p>(c) A claim against a dissolved limited partnership is barred if the requirements of subsection (b) are met and:</p> <ol style="list-style-type: none"> (1) the claim is not received by the specified deadline; or (2) in the case of a claim that is timely received but rejected by the dissolved limited partnership, the claimant does not commence an action to enforce the claim against the limited partnership within 90 days after the receipt of the notice of the rejection. <p>(d) This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that is contingent on that date.</p>	
<p>SECTION 807. OTHER CLAIMS AGAINST DISSOLVED LIMITED PARTNERSHIP</p> <p>(a) A dissolved limited partnership may publish notice of its dissolution and request persons having claims against the limited partnership to present them in accordance with the notice.</p> <p>(b) The notice must:</p> <ol style="list-style-type: none"> (1) be published at least once in a newspaper 	

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<p>of general circulation in the [county] in which the dissolved limited partnership's principal office is located or, if it has none in this State, in the [county] in which the limited partnership's designated offices or was last located;</p> <p>(2) describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent;</p> <p>(3) state that a claim against the limited partnership is barred unless an action to enforce the claim is commenced within five years after publication of the notice; and</p> <p>(4) unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on Section 404.</p> <p>(c) If a dissolved limited partnership publishes a notice in accordance with subsection (b), the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the dissolved limited partnership within five years after the publication date of the notice:</p> <p>(1) a claimant that did not receive notice in a record under Section 806;</p> <p>(2) a claimant whose claim was timely sent to the dissolved limited partnership but not acted on; and</p> <p>(3) a claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.</p> <p>(d) A claim not barred under this section may be enforced:</p> <p>(1) against the dissolved limited partnership, to the extent of its undistributed assets;</p> <p>(2) if the assets have been distributed in liquidation, against a partner or transferee to the extent of that person's proportionate share of the claim or the limited partnership's assets distributed to the partner or transferee in liquidation, whichever is less, but a person's total liability for all claims under this paragraph does not exceed the total amount of assets distributed to the person as part of</p>	

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<p>the winding up of the dissolved limited partnership; or (3) against any person liable on the claim under Section 404.</p>	
<p>SECTION 808. LIABILITY OF GENERAL PARTNER AND PERSON DISSOCIATED AS GENERAL PARTNER WHEN CLAIM AGAINST LIMITED PARTNERSHIP BARRED If a claim against a dissolved limited partnership is barred under Section 806 or 807, any corresponding claim under Section 404 is also barred.</p>	
<p>SECTION 809. ADMINISTRATIVE DISSOLUTION (a) The [Secretary of State] may dissolve a limited partnership administratively if the limited partnership does not, within 60 days after the due date: (1) pay any fee, tax, or penalty due to the [Secretary of State] under this [Act] or other law; or (2) deliver its annual report to the [Secretary of State]. (b) If the [Secretary of State] determines that a ground exists for administratively dissolving a limited partnership, the [Secretary of State] shall file a record of the determination and serve the limited partnership with a copy of the filed record. (c) If within 60 days after service of the copy the limited partnership does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the [Secretary of State] that each ground determined by the [Secretary of State] does not exist, the [Secretary of State] shall administratively dissolve the limited partnership by preparing, signing and filing a declaration of dissolution that states the grounds for dissolution. The [Secretary of State] shall serve the limited partnership with a copy of the filed declaration. (d) A limited partnership administratively dissolved continues its existence but may carry on only activities necessary to wind up its activities and liquidate its assets under Sections 803 and 812 and to notify claimants under Sections 806 and 807.</p>	

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<p>(e) The administrative dissolution of a limited partnership does not terminate the authority of its agent for service of process.</p>	
<p>SECTION 810. REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION</p> <p>(a) A limited partnership that has been administratively dissolved may apply to the [Secretary of State] for reinstatement within two years after the effective date of dissolution. The application must be delivered to the [Secretary of State] for filing and state:</p> <p>(1) the name of the limited partnership and the effective date of its administrative dissolution;</p> <p>(2) that the grounds for dissolution either did not exist or have been eliminated; and</p> <p>(3) that the limited partnership's name satisfies the requirements of Section 108.</p> <p>(b) If the [Secretary of State] determines that an application contains the information required by subsection (a) and that the information is correct, the [Secretary of State] shall prepare a declaration of reinstatement that states this determination, sign, and file the original of the declaration of reinstatement, and serve the limited partnership with a copy.</p> <p>(c) When reinstatement becomes effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the limited partnership may resume its activities as if the administrative dissolution had never occurred.</p>	<p>35-12-620. Reinstatement following cancellation for failure to renew.</p> <p>(1) If a certificate of limited partnership was canceled under 35-12-610 for failure to renew, an application for reinstatement of the original certificate may be made to the secretary of state within 5 years after the effective date of the cancellation.</p> <p>(2) The application must:</p> <p>(a) state the name of the limited partnership and the date its certificate of limited partnership was canceled;</p> <p>(b) state that the limited partnership's name satisfies the requirements of 35-12-505; and</p> <p>(c) include the information required in 35-12-601.</p> <p>(3) If the secretary of state determines that the information provided is sufficient and correct, the secretary of state shall reinstate the certificate of limited partnership and send confirmation to the limited partnership.</p> <p>(4) When reinstated under this section, the certificate of limited partnership becomes effective as if it had not been canceled.</p>
<p>SECTION 811. APPEAL FROM DENIAL OF REINSTATEMENT</p> <p>(a) If the [Secretary of State] denies a limited partnership's application for reinstatement following administrative dissolution, the [Secretary of State] shall prepare, sign and file a notice that explains the reason or reasons for denial and serve the limited partnership with a copy of the notice.</p> <p>(b) Within 30 days after service of the notice of denial, the limited partnership may appeal from the denial of reinstatement by petitioning the [appropriate court] to set aside the dissolution. The petition must be served on the [Secretary of State] and contain a copy of the [Secretary of State's]</p>	

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<p>declaration of dissolution, the limited partnership's application for reinstatement, and the [Secretary of State's] notice of denial.</p> <p>(c) The court may summarily order the [Secretary of State] to reinstate the dissolved limited partnership or may take other action the court considers appropriate.</p>	
<p>SECTION 812. DISPOSITION OF ASSETS; WHEN CONTRIBUTIONS REQUIRED</p> <p>(a) In winding up a limited partnership's activities, the assets of the limited partnership, including the contributions required by this section, must be applied to satisfy the limited partnership's obligations to creditors, including, to the extent permitted by law, partners that are creditors.</p> <p>(b) Any surplus remaining after the limited partnership complies with subsection (a) must be paid in cash as a distribution.</p> <p>(c) If a limited partnership's assets are insufficient to satisfy all of its obligations under subsection (a), with respect to each unsatisfied obligation incurred when the limited partnership was not a limited liability limited partnership, the following rules apply:</p> <p>(1) Each person that was a general partner when the obligation was incurred and that has not been released from the obligation under Section 607 shall contribute to the limited partnership for the purpose of enabling the limited partnership to satisfy the obligation. The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.</p> <p>(2) If a person does not contribute the full amount required under paragraph (1) with respect to an unsatisfied obligation of the limited partnership, the other persons required to contribute by paragraph (1) on account of the obligation shall contribute the additional amount necessary to discharge the obligation. The additional contribution due from each of those other persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those other persons when the obligation was incurred.</p>	<p>35-12-1204. Distribution of assets.</p> <p>Upon the winding up of a limited partnership, the assets shall be distributed as follows:</p> <p>(1) to creditors, including partners who are creditors (to the extent otherwise permitted by law), in satisfaction of liabilities of the limited partnership other than liabilities for distributions to partners pursuant to 35-12-1001 or 35-12-1004.</p> <p>(2) except as otherwise provided in the partnership agreement, to partners and ex-partners in satisfaction of liabilities for distributions pursuant to 35-12-1001 or 35-12-1004; and</p> <p>(3) except as otherwise provided in the partnership agreement, to partners first for the return of their contributions and second, respecting their partnership interests, in the proportions in which the partners share in distributions.</p>

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<p>(3) If a person does not make the additional contribution required by paragraph (2), further additional contributions are determined and due in the same manner as provided in that paragraph.</p> <p>(d) A person that makes an additional contribution under subsection (c)(2) or (3) may recover from any person whose failure to contribute under subsection (c)(1) or (2) necessitated the additional contribution. A person may not recover under this subsection more than the amount additionally contributed. A person's liability under this subsection may not exceed the amount the person failed to contribute.</p> <p>(e) The estate of a deceased individual is liable for the person's obligations under this section.</p> <p>(f) An assignee for the benefit of creditors of a limited partnership or a partner, or a person appointed by a court to represent creditors of a limited partnership or a partner, may enforce a person's obligation to contribute under subsection (c).</p>	
<p>SECTION 901. GOVERNING LAW</p> <p>(a) The laws of the State or other jurisdiction under which a foreign limited partnership is organized govern relations among the partners of the foreign limited partnership and between the partners and the foreign limited partnership and the liability of partners as partners for an obligation of the foreign limited partnership.</p> <p>(b) A foreign limited partnership may not be denied a certificate of authority by reason of any difference between the laws of the jurisdiction under which the foreign limited partnership is organized and the laws of this State.</p> <p>(c) A certificate of authority does not authorize a foreign limited partnership to engage in any business or exercise any power that a limited partnership may not engage in or exercise in this State.</p>	<p>35-12-1301. Law governing.</p> <p>Subject to the constitution and public policy of this state, the laws of the state under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners, and a foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this state.</p>
<p>SECTION 902. APPLICATION FOR CERTIFICATE OF AUTHORITY</p> <p>(a) A foreign limited partnership may apply for a certificate of authority to transact business</p>	<p>35-12-1302. Registration.</p> <p>Before transacting business in this state, a foreign limited partnership shall register with the</p>

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<p>in this State by delivering an application to the [Secretary of State] for filing. The application must state: (1) the name of the foreign limited partnership and, if the name does not comply with Section 108, an alternate name adopted pursuant to Section 905(a).</p> <p>(2) the name of the State or other jurisdiction under whose law the foreign limited partnership is organized;</p> <p>(3) the street and mailing address of the foreign limited partnership's principal office and, if the laws of the jurisdiction under which the foreign limited partnership is organized require the foreign limited partnership to maintain an office in that jurisdiction, the street and mailing address of the required office;</p> <p>(4) the name and street and mailing address of the foreign limited partnership's initial agent for service of process in this State;</p> <p>(5) the name and street and mailing address of each of the foreign limited partnership's general partners; and</p> <p>(6) whether the foreign limited partnership is a foreign limited liability limited partnership.</p> <p>(b) A foreign limited partnership shall deliver with the completed application a certificate of existence or a record of similar import signed by the [Secretary of State] or other official having custody of the foreign limited partnership's publicly filed records in the State or other jurisdiction under whose law the foreign limited partnership is organized.</p>	<p>secretary of state. In order to register, a foreign limited partnership shall submit to the secretary of state the application for registration as a foreign limited partnership, signed and sworn to by a general partner and setting forth:</p> <p>(1) the name of the foreign limited partnership and, if different, the name under which it proposes to transact business and register in this state:</p> <p>(2) the state in which it was formed and the date of its formation;</p> <p>(3) the name and address of any agent for service of process on the foreign limited partnership whom the foreign limited partnership desires to appoint, which agent must be an individual resident of this state, a domestic corporation, or a foreign corporation authorized to do business in this state and with a place of business in this state;</p> <p>(4) a statement that the secretary of state is appointed the agent of the foreign limited partnership for service of process if an agent has not been appointed pursuant to subsection (3) or, if appointed, the agent's authority has been revoked or the agent cannot be found or served with the exercise of reasonable diligence;</p> <p>(5) the address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of each general partner; and</p> <p>(6) the name and business address of each general partner; and</p> <p>(7) the address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is canceled or withdrawn.</p>
SECTION 903. ACTIVITIES NOT CONSTITUTING	35-12-1307. Transaction of business without

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<p>TRANSACTIONING BUSINESS</p> <p>(a) Activities of a foreign limited partnership which do not constitute transacting business in this State within the meaning of this [article] include:</p> <ul style="list-style-type: none"> (1) maintaining, defending, and settling an action or proceeding; (2) holding meetings of its partners or carrying on any other activity concerning its internal affairs; (3) maintaining accounts in financial institutions; (4) maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited partnership's own securities or maintaining trustees or depositories with respect to those securities; (5) selling through independent contractors; (6) soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this State before they become contracts; (7) creating or acquiring indebtedness, mortgages, or security interests in real or personal property; (8) securing or collecting debts or enforcing mortgages or other security interests in property securing the debts, and holding, protecting, and maintaining property so acquired; (9) conducting an isolated transaction that is completed within 30 days and is not one in the course of similar transactions of a like manner; and (10) transacting business in interstate commerce. <p>(b) For purposes of this [article], the ownership in this State of income-producing real property or tangible personal property, other than property excluded under subsection (a), constitutes transacting business in this State.</p> <p>(c) This section does not apply in determining the contacts or activities that may subject a foreign limited partnership to service of process, taxation, or regulation under any other law of this State.</p>	<p>registration.</p> <ul style="list-style-type: none"> (1) A foreign limited partnership transacting business in this state without registration may not maintain any action, suit, or proceeding in any court of this state until it has registered. (2) The failure of a foreign limited partnership to register in this state does not impair the validity of any contract or act of the foreign limited partnership and does not prevent the foreign limited partnership from defending any action, suit, or proceeding in any court of this state. (3) A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of the foreign limited partnership's transacting business in this state without registration. (4) A foreign limited partnership, by transacting business in this state without registration appoints the secretary of state as its agent for service of process with respect to claims for relief arising out of the transaction of business in this state.
SECTION 904. FILING OF CERTIFICATE OF	35-12-1303. Issuance of registration.

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<p>AUTHORITY Unless the [Secretary of State] determines that an application for a certificate of authority does not comply with the filing requirements of this [Act], the [Secretary of State], upon payment of all filing fees, shall file the application, prepare, sign and file a certificate of authority to transact business in this State, and send a copy of the filed certificate, together with a receipt for the fees, to the foreign limited partnership or its representative.</p>	<p>(1) If the secretary of state finds that an application for registration conforms to law and all requisite fees have been paid, the secretary of state shall: (a) endorse on the application the word "filed" and the month, day and year the application was filed; (b) file the original of the application; and (c) issue a certificate of registration to transact business in this state. (2) The certificate of registration must be returned to the person who filed the application or the person's representative.</p>
<p>SECTION 905. NONCOMPLYING NAME OF FOREIGN LIMITED PARTNERSHIP (a) A foreign limited partnership whose name does not comply with Section 108 may not obtain a certificate of authority until it adopts, for the purpose of transacting business in this State, an alternate name that complies with Section 108. A foreign limited partnership that adopts an alternate name under this subsection and then obtains a certificate of authority with the name need not comply with [fictitious name statute]. After obtaining a certificate of authority with an alternate name, a foreign limited partnership shall transact business in this State under the name unless the foreign limited partnership is authorized under [fictitious name statute] to transact business in this State under another name. (b) If a foreign limited partnership authorized to transact business in this State changes its name to one that does not comply with Section 108, it may not thereafter transact business in this State until it complies with subsection (a) and obtains an amended certificate of authority.</p>	<p>35-12-1304. Name. A foreign limited partnership may register with the secretary of state under any name (whether or not it is the name under which it is registered in its state of organization) that includes the words " limited partnership" and that could be registered by a domestic limited partnership.</p>
	<p>35-12-1305. Changes and amendments. If any statement in a foreign limited partnership's application for registration was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited partnership shall promptly file in</p>

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	the office of the secretary of state a certificate, signed and sworn to by a general partner, correcting the statement.
<p>SECTION 906. REVOCATION OF CERTIFICATE OF AUTHORITY</p> <p>(a) A certificate of authority of a foreign limited partnership to transact business in this State may be revoked by the [Secretary of State] in the manner provided in subsections (b) and (c) if the foreign limited partnership does not:</p> <p>(1) pay, within 60 days after the due date, any fee, tax or penalty due to the [Secretary of State] under this [Act] or other law;</p> <p>(2) deliver, within 60 days after the due date, its annual report required under Section 210;</p> <p>(3) appoint and maintain an agent for service of process as required by Section 114(b); or</p> <p>(4) deliver for filing a statement of a change under Section 115 within 30 days after a change has occurred in the name or address of the agent.</p> <p>(b) In order to revoke a certificate of authority, the [Secretary of State] must prepare, sign, and file a notice of revocation and send a copy to the foreign limited partnership's agent for service of process in this State, or if the foreign limited partnership does not appoint and maintain a proper agent in this State, to the foreign limited partnership's designated office. The notice must state:</p> <p>(1) the revocation's effective date, which must be at least 60 days after the date the [Secretary of State] sends the copy; and</p> <p>(2) the foreign limited partnership's failures to comply with subsection (a) which are the reason for the revocation.</p> <p>(c) The authority of the foreign limited partnership to transact business in this State ceases on the effective date of the notice of revocation unless before that date the foreign limited partnership cures each failure to comply with subsection (a) stated in the notice. If the foreign limited partnership cures the failures, the [Secretary of State] shall so indicate on the filed notice.</p>	

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<p>SECTION 907. CANCELLATION OF CERTIFICATE OF AUTHORITY; EFFECT OF FAILURE TO HAVE CERTIFICATE</p> <p>(a) In order to cancel its certificate of authority to transact business in this State, a foreign limited partnership must deliver to the [Secretary of State] for filing a notice of cancellation. The certificate is canceled when the notice becomes effective under Section 206.</p> <p>(b) A foreign limited partnership transacting business in this State may not maintain an action or proceeding in this State unless it has a certificate of authority to transact business in this State.</p> <p>(c) The failure of a foreign limited partnership to have a certificate of authority to transact business in this State does not impair the validity of a contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending an action or proceeding in this State.</p> <p>(d) A partner of a foreign limited partnership is not liable for the obligations of the foreign limited partnership solely by reason of the foreign limited partnership's having transacted business in this State without a certificate of authority.</p> <p>(e) If a foreign limited partnership transacts business in this State without a certificate of authority or cancels its certificate of authority, it appoints the [Secretary of State] as its agent for service of process for rights of action arising out of the transaction of business in this State.</p>	<p>35-12-1306. Cancellation of registration.</p> <p>A foreign limited partnership may cancel its registration by filing with the secretary of state a certificate of cancellation, signed and sworn to by a general partner. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited partnership with respect to claims for relief arising out of the transaction of business in this state.</p>
<p>SECTION 908. ACTION BY [ATTORNEY GENERAL]</p> <p>The [Attorney General] may maintain an action to restrain a foreign limited partnership from transacting business in this State in violation of this [article].</p>	<p>35-12-1308. Action by attorney general.</p> <p>The attorney general may bring an action to restrain a foreign limited partnership from transacting business in this state in violation of 35-12-1301 through 35-12-1307.</p>
<p>SECTION 1001. DIRECT ACTION BY PARTNER</p> <p>(a) Subject to subsection (b), a partner may maintain a direct action against the limited partnership or another partner for legal or equitable relief, with or without an accounting as to the partnership's activities, to enforce</p>	

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<p>the rights and otherwise protect the interests of the partner, including rights and interests under the partnership agreement or this [Act] or arising independently of the partnership relationship.</p> <p>(b) A partner commencing a direct action under this section is required to plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited partnership.</p> <p>(c) The accrual of, and any time limitation on, a right of action for a remedy under this section is governed by other law. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.</p>	
<p>SECTION 1002. DERIVATIVE ACTION A partner may maintain a derivative action to enforce a right of a limited partnership if: (1) the partner first makes a demand on the general partners, requesting that they cause the limited partnership to bring an action to enforce the right, and the general partners do not bring the action within a reasonable time; or (2) a demand would be futile.</p>	<p>35-12-1401. Right of action.</p> <p>A limited partner may bring a derivative action in the right of a limited partnership to recover a judgment in its favor if the general partners having authority to do so have refused to bring the action or an effort to cause those general partners to bring the action is not likely to succeed.</p>
<p>SECTION 1003. PROPER PLAINTIFF A derivative action may be maintained only by a person that is a partner at the time the action is commenced and: (1) that was a partner when the conduct giving rise to the action occurred; or (2) whose status as a partner devolved upon the person by operation of law or pursuant to the terms of the partnership agreement from a person that was a partner at the time of the conduct.</p>	<p>35-12-1402. Proper plaintiff.</p> <p>In a derivative action, the plaintiff must be a partner at the time of bringing the action and must have been a partner at the time of the transaction of which the plaintiff complains or the plaintiff's status as a partner must have devolved by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time of the transaction.</p>
<p>SECTION 1004. PLEADING In a derivative action, the complaint must state with particularity: (1) the date and content of plaintiff's demand and the general partners' response to the demand; or (2) why demand should be excused as futile.</p>	<p>35-12-1403. Pleading</p> <p>In any derivative action, the complaint shall set forth with particularity the effort of the plaintiff to secure initiation of the action by a general partner having authority to do so or the reasons for not making the effort.</p>
<p>SECTION 1005. PROCEEDS AND EXPENSES (a) Except as otherwise provided in subsection (b):</p>	<p>35-12-1404. Expenses.</p>

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<p>(1) any proceeds or other benefits of a derivative action, whether by judgment, compromise, or settlement, belong to the limited partnership and not to the derivative plaintiff;</p> <p>(2) if the derivative plaintiff receives any proceeds, the derivative plaintiff shall immediately remit them to the limited partnership.</p> <p>(b) If a derivative action is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, from the recovery of the limited partnership.</p>	<p>If a derivative action is successful, in whole or in part, or anything is received by the plaintiff as a result of a judgment, compromise, or settlement of an action or claim, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, and shall direct him to account to the limited partnership for the remainder of the proceeds so received by him.</p>
<p>SECTION 1101. DEFINITIONS</p> <p>In this [article]:</p> <p>(1) "Constituent limited partnership" means a constituent organization that is a limited partnership.</p> <p>(2) "Constituent organization" means an organization that is party to a merger.</p> <p>(3) "Converted organization" means the organization into which a converting organization converts pursuant to Sections 1102 through 1105.</p> <p>(4) "Converting limited partnership" means a converting organization that is a limited partnership.</p> <p>(5) "Converting organization" means an organization that converts into another organization pursuant to Section 1102.</p> <p>(6) "General partner" means a general partner of a limited partnership.</p> <p>(7) "Governing statute" of an organization means the statute that governs the organization's internal affairs.</p> <p>(8) "Organization" means a general partnership, including a limited liability partnership; limited partnership, including a limited liability limited partnership; limited liability company; business trust; corporation; or any other person having a governing statute. The term includes domestic and foreign organizations whether or not organized for profit.</p> <p>(9) "Organizational documents" means:</p> <p>(A) for a domestic or foreign general partnership, its partnership agreement;</p> <p>(B) for a limited partnership or foreign limited</p>	

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<p>partnership, its certificate of limited partnership and partnership agreement;</p> <p>(C) for a domestic or foreign limited liability company, its articles of organization and operating agreement, or comparable records as provided in its governing statute;</p> <p>(D) for a business trust, its agreement of trust and declaration of trust;</p> <p>(E) for a domestic or foreign corporation for profit, its articles of incorporation, bylaws, and other agreements among its shareholders which are authorized by its governing statute, or comparable records as provided in its governing statute; and</p> <p>(F) for any other organization, the basic records that create the organization and determine its internal governance and the relations among the persons that own it, have an interest in it, or are members of it.</p> <p>(10) "Personal liability" means personal liability for a debt, liability, or other obligation of an organization which is imposed on a person that co-owns, has an interest in, or is a member of the organization:</p> <p>(A) by the organization's governing statute solely by reason of the person co-owning, having an interest in, or being a member of the organization; or</p> <p>(B) by the organization's organizational documents under a provision of the organization's governing statute authorizing those documents to make one or more specified persons liable for all or specified debts, liabilities, and other obligations of the organization solely by reason of the person or persons co-owning, having an interest in, or being a member of the organization.</p> <p>(11) "Surviving organization" means an organization into which one or more other organizations are merged. A surviving organization may preexist the merger or be created by the merger.</p>	
<p>SECTION 1102. CONVERSION</p> <p>(a) An organization other than a limited partnership may convert to a limited partnership, and a limited partnership may convert to another organization pursuant to this section and Sections 1103 through 1105</p>	

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<p>and a plan of conversion, if:</p> <p>(1) the other organization's governing statute authorizes the conversion;</p> <p>(2) the conversion is not prohibited by the law of the jurisdiction that enacted the governing statute; and</p> <p>(3) the other organization complies with its governing statute in effecting the conversion.</p> <p>(b) A plan of conversion must be in a record and must include:</p> <p>(1) the name and form of the organization before conversion;</p> <p>(2) the name and form of the organization after conversion; and</p> <p>(3) the terms and conditions of the conversion, including the manner and basis for converting interests in the converting organization into any combination of money, interests in the converted organization, and other consideration; and</p> <p>(4) the organizational documents of the converted organization.</p>	
<p>SECTION 1103. ACTION ON PLAN OF CONVERSION BY CONVERTING LIMITED PARTNERSHIP</p> <p>(a) Subject to Section 1110, a plan of conversion must be consented to by all the partners of a converting limited partnership.</p> <p>(b) Subject to Section 1110 and any contractual rights, after a conversion is approved, and at any time before a filing is made under Section 1104, a converting limited partnership may amend the plan or abandon the planned conversion:</p> <p>(1) as provided in the plan; and</p> <p>(2) except as prohibited by the plan, by the same consent as was required to approve the plan.</p>	
<p>SECTION 1104. FILINGS REQUIRED FOR CONVERSION; EFFECTIVE DATE</p> <p>(a) After a plan of conversion is approved:</p> <p>(1) a converting limited partnership shall deliver to the [Secretary of State] for filing articles of conversion, which must include:</p> <p>(A) a statement that the limited partnership has been converted into another organization;</p> <p>(B) the name and form of the organization</p>	

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<p>and the jurisdiction of its governing statute; (C) the date the conversion is effective under the governing statute of the converted organization; (D) a statement that the conversion was approved as required by this [Act];</p>	
<p>SECTION 1105. EFFECT OF CONVERSION (E) a statement that the conversion was approved as required by the governing statute of the converted organization; and (F) if the converted organization is a foreign organization not authorized to transact business in this State, the street and mailing address of an office which the [Secretary of State] may use for the purposes of Section 1105(c); and (2) if the converting organization is not a converting limited partnership, the converting organization shall deliver to the [Secretary of State] for filing a certificate of limited partnership, which must include, in addition to the information required by Section 201: (A) a statement that the limited partnership was converted from another organization; (B) the name and form of the organization and the jurisdiction of its governing statute; and (C) a statement that the conversion was approved in a manner that complied with the organization's governing statute. (b) A conversion becomes effective: (1) if the converted organization is a limited partnership, when the certificate of limited partnership takes effect; and (2) if the converted organization is not a limited partnership, as provided by the governing statute of the converted organization.</p>	
<p>SECTION 1106. MERGER (a) A limited partnership may merge with one or more other constituent organizations pursuant to this section and Sections 1107 through 1109 and a plan of merger, if: (1) the governing statute of each the other organizations authorizes the merger; (2) the merger is not prohibited by the law of a jurisdiction that enacted any of those governing statutes; and</p>	

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<p>(3) each of the other organizations complies with its governing statute in effecting the merger.</p> <p>(b) A plan of merger must be in a record and must include:</p> <p>(1) the name and form of each constituent organization;</p> <p>(2) the name and form of the surviving organization and, if the surviving organization is to be created by the merger, a statement to that effect;</p> <p>(3) the terms and conditions of the merger, including the manner and basis for converting the interests in each constituent organization into any combination of money, interests in the surviving organization, and other consideration;</p> <p>(4) if the surviving organization is to be created by the merger, the surviving organization's organizational documents; and</p> <p>(5) if the surviving organization is not to be created by the merger, any amendments to be made by the merger to the surviving organization's organizational documents.</p>	
<p>SECTION 1107. ACTION ON PLAN OF MERGER BY CONSTITUENT LIMITED PARTNERSHIP</p> <p>(a) Subject to Section 1110, a plan of merger must be consented to by all the partners of a constituent limited partnership.</p> <p>(b) Subject to Section 1110 and any contractual rights, after a merger is approved, and at any time before a filing is made under Section 1108, a constituent limited partnership may amend the plan or abandon the planned merger:</p> <p>(1) as provided in the plan; and (2) except as prohibited by the plan, with the same consent as was required to approve the plan.</p>	
<p>SECTION 1108. FILINGS REQUIRED FOR MERGER; EFFECTIVE DATE</p> <p>(a) After each constituent organization has approved a merger, articles of merger must be signed on behalf of:</p> <p>(1) each preexisting constituent limited partnership, by each general partner listed in the certificate of limited partnership; and</p> <p>(2) each other preexisting constituent organization, by an authorized representative.</p>	

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<p>(b) The articles of merger must include:</p> <p>(1) the name and form of each constituent organization and the jurisdiction of its governing statute;</p> <p>(2) the name and form of the surviving organization, the jurisdiction of its governing statute, and, if the surviving organization is created by the merger, a statement to that effect;</p> <p>(3) the date the merger is effective under the governing statute of the surviving organization;</p> <p>(4) if the surviving organization is to be created by the merger:</p> <p>(A) if it will be a limited partnership, the limited partnership's certificate of limited partnership;</p> <p>or</p> <p>(B) if it will be an organization other than a limited partnership, the organizational document that creates the organization;</p> <p>(5) if the surviving organization preexists the merger, any amendments provided for in the plan of merger for the organizational document that created the organization;</p> <p>(6) a statement as to each constituent organization that the merger was approved as required by the organization's governing statute;</p> <p>(7) if the surviving organization is a foreign organization not authorized to transact business in this State, the street and mailing address of an office which the [Secretary of State] may use for the purposes of Section 1109(b); and</p> <p>(8) any additional information required by the governing statute of any constituent organization.</p> <p>(c) Each constituent limited partnership shall deliver the articles of merger for filing in the [office of the Secretary of State].</p> <p>(d) A merger becomes effective under this [article]:</p> <p>(1) if the surviving organization is a limited partnership, upon the later of:</p> <p>(i) compliance with subsection (c); or</p> <p>(ii) subject to Section 206(c), as specified in the articles of merger; or</p> <p>(2) if the surviving organization is not a limited partnership, as provided by the governing</p>	

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statute of the surviving organization.	
<p>SECTION 1109. EFFECT OF MERGER</p> <p>(a) When a merger becomes effective:</p> <p>(1) the surviving organization continues or comes into existence;</p> <p>(2) each constituent organization that merges into the surviving organization ceases to exist as a separate entity;</p> <p>(3) all property owned by each constituent organization that ceases to exist vests in the surviving organization;</p> <p>(4) all debts, liabilities, and other obligations of each constituent organization that ceases to exist continue as obligations of the surviving organization;</p> <p>(5) an action or proceeding pending by or against any constituent organization that ceases to exist may be continued as if the merger had not occurred;</p> <p>(6) except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent organization that ceases to exist vest in the surviving organization;</p> <p>(7) except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect; and</p> <p>(8) except as otherwise agreed, if a constituent limited partnership ceases to exist, the merger does not dissolve the limited partnership for the purposes of [Article] 8;</p> <p>(9) if the surviving organization is created by the merger:</p> <p>(A) if it is a limited partnership, the certificate of limited partnership becomes effective; or</p> <p>(B) if it is an organization other than a limited partnership, the organizational document that creates the organization becomes effective; and</p> <p>(10) if the surviving organization preexists the merger, any amendments provided for in the articles of merger for the organizational document that created the organization become effective.</p> <p>(b) A surviving organization that is a foreign organization consents to the jurisdiction of the courts of this State to enforce any obligation owed by a constituent organization, if before the merger the constituent organization was</p>	

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<p>subject to suit in this State on the obligation. A surviving organization that is a foreign organization and not authorized to transact business in this State appoints the [Secretary of State] as its agent for service of process for the purposes of enforcing an obligation under this subsection. Service on the [Secretary of State] under this subsection is made in the same manner and with the same consequences as in Section 117(c) and (d).</p>	
<p>SECTION 1110. RESTRICTIONS ON APPROVAL OF CONVERSIONS AND MERGERS AND ON RELINQUISHING LLLP STATUS (a) If a partner of a converting or constituent limited partnership will have personal liability with respect to a converted or surviving organization, approval and amendment of a plan of conversion or merger are ineffective without the consent of the partner, unless: (1) the limited partnership's partnership agreement provides for the approval of the conversion or merger with the consent of fewer than all the partners; and (2) the partner has consented to the provision of the partnership agreement. (b) An amendment to a certificate of limited partnership which deletes a statement that the limited partnership is a limited liability limited partnership is ineffective without the consent of each general partner unless: (1) the limited partnership's partnership agreement provides for the amendment with the consent of less than all the general partners; and (2) each general partner that does not consent to the amendment has consented to the provision of the partnership agreement. (c) A partner does not give the consent required by subsection (a) or (b) merely by consenting to a provision of the partnership agreement which permits the partnership agreement to be amended with the consent of fewer than all the partners.</p>	
<p>SECTION 1111. LIABILITY OF GENERAL PARTNER AFTER CONVERSION OR MERGER (a) A conversion or merger under this [article] does not discharge any liability under Sections 404 and 607 of a person that was a general</p>	

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<p>partner in or dissociated as a general partner from a converting or constituent limited partnership, but:</p> <p>(1) the provisions of this [Act] pertaining to the collection or discharge of the liability continue to apply to the liability;</p> <p>(2) for the purposes of applying those provisions, the converted or surviving organization is deemed to be the converting or constituent limited partnership; and</p> <p>(3) if a person is required to pay any amount under this subsection:</p> <p>(A) the person has a right of contribution from each other person that was liable as a general partner under Section 404 when the obligation was incurred and has not been released from the obligation under Section 607; and</p> <p>(B) the contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.</p> <p>(b) In addition to any other liability provided by law:</p> <p>(1) a person that immediately before a conversion or merger became effective was a general partner in a converting or constituent limited partnership that was not a limited liability limited partnership is personally liable for each obligation of the converted or surviving organization arising from a transaction with a third party after the conversion or merger becomes effective, if, at the time the third party enters into the transaction, the third party:</p> <p>(A) does not have notice of the conversion or merger; and</p> <p>(B) reasonably believes that:</p> <p>(i) the converted or surviving business is the converting or constituent limited partnership;</p> <p>(ii) the converting or constituent limited partnership is not a limited liability limited partnership; and (iii) the person is a general partner in the converting or constituent limited partnership; and</p> <p>(2) a person that was dissociated as a general partner from a converting or constituent limited partnership before the conversion or</p>	

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<p>merger became effective is personally liable for each obligation of the converted or surviving organization arising from a transaction with a third party after the conversion or merger becomes effective, if:</p> <p>(A) immediately before the conversion or merger became effective the converting or surviving limited partnership was a not a limited liability limited partnership; and</p> <p>(B) at the time the third party enters into the transaction less than two years have passed since the person dissociated as a general partner and the third party:</p> <p>(i) does not have notice of the dissociation;</p> <p>(ii) does not have notice of the conversion or merger; and</p> <p>(iii) reasonably believes that the converted or surviving organization is the converting or constituent limited partnership, the converting or constituent limited partnership is not a limited liability limited partnership, and the person is a general partner in the converting or constituent limited partnership.</p>	
<p>SECTION 1112. POWER OF GENERAL PARTNERS AND PERSONS DISSOCIATED AS GENERAL PARTNERS TO BIND ORGANIZATION AFTER CONVERSION OR MERGER</p> <p>(a) An act of a person that immediately before a conversion or merger became effective was a general partner in a converting or constituent limited partnership binds the converted or surviving organization after the conversion or merger becomes effective, if:</p> <p>(1) before the conversion or merger became effective, the act would have bound the converting or constituent limited partnership under Section 402; and</p> <p>(2) at the time the third party enters into the transaction, the third party:</p> <p>(A) does not have notice of the conversion or merger; and</p> <p>(B) reasonably believes that the converted or surviving business is the converting or constituent limited partnership and that the person is a general partner in the converting or constituent limited partnership.</p> <p>(b) An act of a person that before a conversion or merger became effective was</p>	

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<p>dissociated as a general partner from a converting or constituent limited partnership binds the converted or surviving organization after the conversion or merger becomes effective, if:</p> <p>(1) before the conversion or merger became effective, the act would have bound the converting or constituent limited partnership under Section 402 if the person had been a general partner; and</p> <p>(2) at the time the third party enters into the transaction, less than two years have passed since the person dissociated as a general partner and the third party:</p> <p>(A) does not have notice of the dissociation;</p> <p>(B) does not have notice of the conversion or merger; and</p> <p>(C) reasonably believes that the converted or surviving organization is the converting or constituent limited partnership and that the person is a general partner in the converting or constituent limited partnership.</p> <p>(c) If a person having knowledge of the conversion or merger causes a converted or surviving organization to incur an obligation under subsection (a) or (b), the person is liable:</p> <p>(1) to the converted or surviving organization for any damage caused to the organization arising from the obligation; and</p> <p>(2) if another person is liable for the obligation, to that other person for any damage caused to that other person arising from the liability.</p>	
<p>SECTION 1113. [ARTICLE] NOT EXCLUSIVE This [article] does not preclude an entity from being converted or merged under other law.</p>	
<p>SECTION 1201. UNIFORMITY OF APPLICATION AND CONSTRUCTION In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among States that enact it.</p>	<p>35-12-502. Construction and application. This chapter must be so construed and applied to affect its general purpose to make uniform the law with respect to limited partnerships among states enacting it.</p>
	<p>31-12-503. Rules for cases not provided for in this chapter In any case not provided for in this chapter,</p>

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	the provisions of the Uniform Partnership Act (title 35, chapter 10) govern.
<p>SECTION 1202. SEVERABILITY CLAUSE If any provision of this [Act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [Act] which can be given effect without the invalid provision or application, and to this end the provisions of this [Act] are severable.</p>	
<p>SECTION 1203. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT This [Act] modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but this [Act] does not modify, limit, or supersede Section 101(c) of that Act or authorize electronic delivery of any of the notices described in Section 103(b) of that Act.</p>	
<p>SECTION 1204. EFFECTIVE DATE This [Act] takes effect [effective date].</p>	
<p>SECTION 1205. REPEALS Effective [all-inclusive date], the following acts and parts of acts are repealed: [the State Limited Partnership Act as amended and in effect immediately before the effective date of this [Act]].</p>	
<p>SECTION 1206. APPLICATION TO EXISTING RELATIONSHIPS (a) Before [all-inclusive date], this [Act] governs only: (1) a limited partnership formed on or after [the effective date of this [Act]]; and (2) except as otherwise provided in subsections (c) and (d), a limited partnership formed before [the effective date of this [Act]] which elects, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be subject to this [Act]. (b) Except as otherwise provided in subsection (c), on and after [all-inclusive</p>	

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<p>date] this [Act] governs all limited partnerships.</p> <p>(c) With respect to a limited partnership formed before [the effective date of this [Act]], the following rules apply except as the partners otherwise elect in the manner provided in the partnership agreement or by law for amending the partnership agreement:</p> <p>(1) Section 104(c) does not apply and the limited partnership has whatever duration it had under the law applicable immediately before [the effective date of this [Act]].</p> <p>(2) the limited partnership is not required to amend its certificate of limited partnership to comply with Section 201(a)(4).</p> <p>(3) Sections 601 and 602 do not apply and a limited partner has the same right and power to dissociate from the limited partnership, with the same consequences, as existed immediately before [the effective date of this [Act]].</p> <p>(4) Section 603(4) does not apply.</p> <p>(5) Section 603(5) does not apply and a court has the same power to expel a general partner as the court had immediately before [the effective date of this [Act]].</p> <p>(6) Section 801(3) does not apply and the connection between a person's dissociation as a general partner and the dissolution of the limited partnership is the same as existed immediately before [the effective date of this [Act]].</p> <p>(d) With respect to a limited partnership that elects pursuant to subsection (a)(2) to be subject to this [Act], after the election takes effect the provisions of this [Act] relating to the liability of the limited partnership's general partners to third parties apply:</p> <p>(1) before [all-inclusive date], to:</p> <p>(A) a third party that had not done business with the limited partnership in the year before the election took effect; and</p> <p>(B) a third party that had done business with the limited partnership in the year before the election took effect only if the third party knows or has received a notification of the election; and</p> <p>(2) on and after [all-inclusive date], to all third parties, but those provisions remain</p>	

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<p>inapplicable to any obligation incurred while those provisions were inapplicable under paragraph (1)(B).</p>	
<p>SECTION 1207. SAVINGS CLAUSE This [Act] does not affect an action commenced, proceeding brought, or right accrued before this [Act] takes effect.</p>	

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<p>SECTION 101. SHORT TITLE. This [act] may be cited as the Revised Uniform Limited Liability Company Act.</p>	<p>35-8-101 Short title. This chapter may be cited as the "Montana Limited Liability Company Act".</p>
<p>SECTION 102. DEFINITIONS. In this [act]:</p> <p>(1) "Certificate of organization" means the certificate required by Section 201. The term includes the certificate as amended or restated.</p> <p>(2) "Contribution" means any benefit provided by a person to a limited liability company:</p> <p>(A) in order to become a member upon formation of the company and in accordance with an agreement between or among the persons that have agreed to become the initial members of the company;</p> <p>(B) in order to become a member after formation of the company and in accordance with an agreement between the person and the company; or</p> <p>(C) in the person's capacity as a member and in accordance with the operating agreement or an agreement between the member and the company.</p> <p>(3) "Debtor in bankruptcy" means a person that is the subject of:</p> <p>(A) an order for relief under Title 11 of the United States Code or a successor statute of general application; or</p> <p>(B) a comparable order under federal, state, or foreign law governing insolvency.</p> <p>(4) "Designated office" means:</p> <p>(A) the office that a limited liability company is required to designate and maintain under Section 113; or</p> <p>(B) the principal office of a foreign limited liability company.</p> <p>(5) "Distribution", except as otherwise provided in Section 405(g), means a transfer of money or other property from a limited liability company to another person on account of a transferable interest.</p> <p>(6) "Effective", with respect to a record required or permitted to be delivered to the [Secretary of State] for filing under this [act], means effective under Section 205(c).</p> <p>(7) "Foreign limited liability company" means an unincorporated entity formed</p>	<p>35-8-102 Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:</p> <p>(1) "Articles of organization" means articles filed pursuant to 35-8-201 and those articles as amended or restated. In the case of a foreign limited liability company, the term includes all records serving a similar function required to be filed under the laws of the state or country where it is organized.</p> <p>(2) "At-will company" means a limited liability company other than a term company.</p> <p>(3) "Authorized agent" means any individual granted permission by an entity to execute a document on behalf of the entity. The entity is responsible for maintaining a record of the permission granted to an authorized agent.</p> <p>(4) "Business" includes every trade, occupation, profession, or other lawful purpose, whether or not carried on for profit.</p> <p>(5) "Corporation" means a corporation formed under the laws of this state or a foreign corporation.</p> <p>(6) "Court" includes every court having jurisdiction in the case.</p> <p>(7) "Debtor in bankruptcy" means a person who is the subject of an order for relief under Title 11 of the United States Code or a comparable order under federal, state, or foreign law governing insolvency.</p> <p>(8) "Disqualified person" means any person or entity that for any reason is or becomes ineligible under this chapter to become a member in a professional limited liability company.</p> <p>(9) "Distribution" means a transfer of money, property, or other benefit to a member in that member's capacity as a member of a limited liability company or to a transferee of a member's distributional interest.</p> <p>(10) "Distributional interest" means all of a member's interest in the distributions of a limited liability company.</p> <p>(11) "Event of dissociation" means an event that causes a person to cease to be a member.</p> <p>(12) "Foreign corporation" means a corporation that is organized under the laws of a state other</p>

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<p>under the law of a jurisdiction other than this state and denominated by that law as a limited liability company.</p> <p>(8) "Limited liability company", except in the phrase "foreign limited liability company", means an entity formed under this [act].</p> <p>(9) "Manager" means a person that under the operating agreement of a manager-managed limited liability company is responsible, alone or in concert with others, for performing the management functions stated in Section 407(c).</p> <p>(10) "Manager-managed limited liability company" means a limited liability company that qualifies under Section 407(a).</p> <p>(11) "Member" means a person that has become a member of a limited liability company under Section 401 and has not dissociated under Section 602.</p> <p>(12) "Member-managed limited liability company" means a limited liability company that is not a manager-managed limited liability company.</p> <p>(13) "Operating agreement" means the agreement, whether or not referred to as an operating agreement and whether oral, in a record, implied, or in any combination thereof, of all the members of a limited liability company, including a sole member, concerning the matters described in Section 110(a). The term includes the agreement as amended or restated.</p> <p>(14) "Organizer" means a person that acts under Section 201 to form a limited liability company.</p> <p>(15) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.</p> <p>(16) "Principal office" means the principal executive office of a limited liability company or foreign limited liability company, whether or not the office is located in this state.</p> <p>(17) "Record" means information that</p>	<p>than Montana or under the laws of any foreign country.</p> <p>(13) "Foreign limited liability company" means an entity that is:</p> <p>(a) an unincorporated entity;</p> <p>(b) organized under laws of a state other than Montana or under the laws of any foreign country;</p> <p>(c) organized under a statute pursuant to which an entity may be formed that affords to each of its members limited liability with respect to the liabilities of the entity; and</p> <p>(d) not required to be registered or organized under any statute of this state other than this chapter.</p> <p>(14) "Foreign limited partnership" means a limited partnership formed under the laws of any state other than Montana or under the laws of any foreign country.</p> <p>(15) "Foreign professional limited liability company" means a limited liability company organized for the purpose of rendering professional services under the laws of any state other than Montana.</p> <p>(16) "Licensing authority" means an officer, board, agency, court, or other authority in this state that has the power to issue a license or other legal authorization to render a professional service.</p> <p>(17) "Limited liability company" or "domestic limited liability company" means an organization that is formed under this chapter.</p> <p>(18) "Limited partnership" means a limited partnership formed under the laws of this state or a foreign limited partnership.</p> <p>(19) "Manager" means a person who, whether or not a member of a manager-managed company, is vested with authority under 35-8-301.</p> <p>(20) "Manager-managed company" means a limited liability company that is so designated in its articles of organization.</p> <p>(21) "Member" means a person who has been admitted to membership in a limited liability company, as provided in 35-8-703, and who has not dissociated from the limited liability company.</p> <p>(22) "Member-managed company" means a limited liability company other than a manager-managed company.</p>

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<p>is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.</p> <p>(18) "Sign" means, with the present intent to authenticate or adopt a record:</p> <p>(A) to execute or adopt a tangible symbol; or</p> <p>(B) to attach to or logically associate with the record an electronic symbol, sound, or process.</p> <p>(19) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.</p> <p>(20) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, and transfer by operation of law.</p> <p>(21) "Transferable interest" means the right, as originally associated with a person's capacity as a member, to receive distributions from a limited liability company in accordance with the operating agreement, whether or not the person remains a member or continues to own any part of the right.</p> <p>(22) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.</p>	<p>(23) "Operating agreement" means an agreement, including amendments, as to the conduct of the business and affairs of a limited liability company and the relations among the members, managers, and the company that is binding upon all of the members.</p> <p>(24) "Person" means an individual, a general partnership, a limited partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation, or any other legal or commercial entity.</p> <p>(25) "Professional limited liability company" means a limited liability company designating itself as a professional limited liability company in its articles of organization.</p> <p>(26) "Professional service" means a service that may lawfully be rendered only by persons licensed under a licensing law of this state and that may not be lawfully rendered by a limited liability company that is not a professional limited liability company.</p> <p>(27) "Qualified person" means a natural person, limited liability company, general partnership, or professional corporation eligible under this chapter to own shares issued by a professional limited liability company.</p> <p>(28) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is recoverable in a perceivable form.</p> <p>(29) "Sign" means to identify a record by means of a signature, mark, or other symbol with the intent to authenticate it.</p> <p>(30) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.</p> <p>(31) "Surviving limited liability company" means the constituent entity surviving the merger, as identified in the articles of merger provided for in 35-8-1201.</p> <p>(32) "Term company" means a limited liability company designated as a term company in its articles of organization.</p>
<p>SECTION 103. KNOWLEDGE; NOTICE.</p> <p>(a) A person knows a fact when the person:</p> <p>(1) has actual knowledge of it;</p> <p>or</p> <p>(2) is deemed to know it under subsection (d)(1) or law other than this</p>	<p>35-8-219 Knowledge and notice.</p> <p>(1) A person knows a fact if the person has actual knowledge of the fact.</p> <p>(2) A person has notice of a fact if the person:</p> <p>(a) knows the fact;</p> <p>(b) has received a notification of the fact; or</p> <p>(c) has reason to know that the fact exists from</p>

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<p>[act].</p> <p>(b) A person has notice of a fact when the person:</p> <p>(1) has reason to know the fact from all of the facts known to the person at the time in question; or</p> <p>(2) is deemed to have notice of the fact under subsection (d)(2);</p> <p>(c) A person notifies another of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person knows the fact.</p> <p>(d) A person that is not a member is deemed:</p> <p>(1) to know of a limitation on authority to transfer real property as provided in Section 302(g); and</p> <p>(2) to have notice of a limited liability company's:</p> <p>(A) dissolution, 90 days after a statement of dissolution under Section 702(b)(2)(A) becomes effective;</p> <p>(B) termination, 90 days after a statement of termination Section 702(b)(2)(F) becomes effective; and</p> <p>(C) merger, conversion, or domestication, 90 days after articles of merger, conversion, or domestication under [Article] 10 become effective.</p>	<p>other facts known to the person at the time in question.</p> <p>(3) A person notifies or gives a notification of a fact to another by taking steps reasonably required to inform the other person, whether or not the other person knows the fact.</p> <p>(4) A person receives a notification when the notification:</p> <p>(a) comes to the person's attention; or</p> <p>(b) is delivered at the person's place of business or at any other place held out by the person as a place for receiving communications.</p> <p>(5) (a) An entity knows, has notice, or receives a notification of a fact for purposes of a particular transaction:</p> <p>(i) when an individual conducting the transaction for the entity knows, has notice, or receives a notification of the fact; or</p> <p>(ii) when the fact would have been brought to the individual's attention had the entity exercised reasonable diligence.</p> <p>(b) (i) An entity exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the individual conducting the transaction for the entity and there is reasonable compliance with the routines.</p> <p>(ii) Reasonable diligence does not require an individual acting for the entity to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and to know that the transaction would be materially affected by the information.</p>
<p>SECTION 104. NATURE, PURPOSE, AND DURATION OF LIMITED LIABILITY COMPANY.</p> <p>(a) A limited liability company is an entity distinct from its members.</p> <p>(b) A limited liability company may have any lawful purpose, regardless of whether for profit.</p> <p>(c) A limited liability company has perpetual duration.</p>	<p>35-8-106 Purpose.</p> <p>(1) A limited liability company organized under 35-8-201 through 35-8-211 has the purpose of engaging in any lawful business unless a more limited purpose is set forth in the articles of organization.</p> <p>(2) Limited liability companies may be organized under 35-8-201 through 35-8-211 for any lawful purpose except for the purpose of banking or insurance.</p>
<p>SECTION 105. POWERS. A limited liability company has the capacity to sue and be sued in its own name and the power to do all things necessary or convenient to carry on its activities.</p>	<p>35-8-107 Powers.</p> <p>A limited liability company may:</p> <p>(1) sue, be sued, complain, and defend in all courts;</p> <p>(2) transact its business, carry on its operations, and have and exercise the powers granted by</p>

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	<p>this section in any state; in any territory, district, or possession of the United States; and in any foreign country;</p> <p>(3) make contracts and guarantees, incur liabilities, and borrow money;</p> <p>(4) sell, lease, exchange, transfer, convey, mortgage, pledge, and otherwise dispose of any of its assets;</p> <p>(5) acquire by purchase or in any other manner, take, receive, own, hold, improve, and otherwise deal with any interest in real or personal property, wherever located;</p> <p>(6) issue notes, bonds, and other obligations and secure any of them by mortgage, deed of trust, or security interest of any of its assets;</p> <p>(7) purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, loan, pledge, or otherwise dispose of and otherwise use and deal in and with stock or other interests in and obligations of domestic and foreign corporations, associations, general or limited partnerships, limited liability companies, business trusts, and individuals;</p> <p>(8) invest its surplus funds, lend money from time to time in any manner that may be appropriate to enable it to carry on the operations or fulfill the purposes set forth in its articles of organization, and take and hold real property and personal property as security for the payment of funds loaned or invested;</p> <p>(9) elect or appoint agents and define their duties and fix their compensation;</p> <p>(10) sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets;</p> <p>(11) be a promoter, stockholder, partner, member, associate, or agent of any corporation, partnership, domestic or foreign limited liability company, joint venture, trust, or other enterprise;</p> <p>(12) indemnify and hold harmless any member, agent, or employee from and against any claims and demands whatsoever, except in the case of action or failure to act by the member, agent, or employee that constitutes willful misconduct or recklessness, and subject to the standards and restrictions, if any, set forth in the articles of organization or operating agreement;</p> <p>(13) cease its activities and dissolve;</p> <p>(14) pay pensions and establish pension plans,</p>

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	<p>pension trusts, profit-sharing plans, share bonus plans, share option plans, and benefit or incentive plans for any of its current or former directors, officers, employees, and agents;</p> <p>(15) make donations for the public welfare or for charitable, religious, scientific, or educational purposes and, in time of war, make donations in aid of war activities; and</p> <p>(16) do every other act not inconsistent with law that is appropriate to promote and further the business and affairs of the limited liability company.</p>
<p>SECTION 106. GOVERNING LAW. The law of this state governs:</p> <p>(1) the internal affairs of a limited liability company; and</p> <p>(2) the liability of a member as member and a manager as manager for the debts, obligations, or other liabilities of a limited liability company.</p>	
<p>SECTION 107. SUPPLEMENTAL PRINCIPLES OF LAW. Unless displaced by particular provisions of this [act], the principles of law and equity supplement this [act].</p>	<p>35-8-110 Purpose -- supplemental principles of law -- interest rate.</p> <p>(1) Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.</p> <p>(2) If an obligation to pay interest arises under the provisions of this chapter and the rate of interest is not specified, then the rate is the rate of interest specified in 31-1-106.</p>
<p>SECTION 108. NAME.</p> <p>(a) The name of a limited liability company must contain the words "limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", "L.C.", or "LC". "Limited" may be abbreviated as "Ltd.", and "company" may be abbreviated as "Co.".</p> <p>(b) Unless authorized by subsection (c), the name of a limited liability company must be distinguishable in the records of the [Secretary of State] from:</p> <p>(1) the name of each person that is not an individual and that is incorporated, organized, or authorized to transact business in this state;</p> <p>(2) the limited liability company name stated in each certificate of organization that contains the statement as provided in Section 201 (b) (3) and that has not lapsed; and</p>	<p>35-8-103 Name.</p> <p>(1) (a) The name of each limited liability company as set forth in its articles of organization must contain the words "limited liability company" or "limited company" or the abbreviations "l.l.c.", "l.c.", "llc", or "lc". The word "limited" may be abbreviated as "ltd.", and the word "company" may be abbreviated as "co.".</p> <p>(b) The name of a limited liability company as set forth in its articles of organization may not contain business name identifiers, as defined in 30-13-201, or other language that states or implies that the limited liability company is a business other than a limited liability company.</p> <p>(2) A limited liability company name must be distinguishable on the records of the secretary of state from:</p> <p>(a) the name of any business corporation, nonprofit corporation, limited partnership, or limited liability company organized or reserved under the laws of this state;</p>

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<p>(3) each name reserved under Section 109 and [cite other state laws allowing the reservation or registration of business names, including fictitious or assumed name statutes].</p> <p>(c) A limited liability company may apply to the [Secretary of State] for authorization to use a name that does not comply with subsection (b). The [Secretary of State] shall authorize use of the name applied for if, as to each noncomplying name:</p> <p>(1) the present user, registrant, or owner of the noncomplying name consents in a signed record to the use and submits an undertaking in a form satisfactory to the [Secretary of State] to change the noncomplying name to a name that complies with subsection (b) and is distinguishable in the records of the [Secretary of State] from the name applied for; or</p> <p>(2) the applicant delivers to the [Secretary of State] a certified copy of the final judgment of a court establishing the applicant's right to use in this state the name applied for.</p> <p>(d) Subject to Section 805, this section applies to a foreign limited liability company transacting business in this state which has a certificate of authority to transact business in this state or which has applied for a certificate of authority.</p>	<p>(b) the name of any foreign business corporation, foreign nonprofit corporation, foreign limited partnership, or foreign limited liability company registered or qualified to do business in this state;</p> <p>(c) any assumed business name, limited partnership name, trademark, service mark, or other name registered or reserved with the secretary of state; and</p> <p>(d) the corporate name of a domestic corporation that has dissolved but only for a period of 120 days after the effective date of its dissolution.</p> <p>(3) The use of the name of a limited liability company by another limited liability company or limited partnership is governed by 35-1-308.</p> <p>(4) Contests over names registered under this section are governed by 35-1-310.</p>
<p>SECTION 109. RESERVATION OF NAME.</p> <p>(a) A person may reserve the exclusive use of the name of a limited liability company, including a fictitious or assumed name for a foreign limited liability company whose name is not available, by delivering an application to the [Secretary of State] for filing. The application must state the name and address of the applicant and the name proposed to be reserved. If the [Secretary of State] finds that the name applied for is available, it must be reserved for the applicant's exclusive use for a 120-day period.</p> <p>(b) The owner of a name reserved for a limited liability company may transfer the reservation to another person by delivering</p>	<p>35-8-104 Reservation of name.</p> <p>(1) The exclusive right to use a name may be reserved by:</p> <p>(a) a person intending to organize a limited liability company and to adopt that name;</p> <p>(b) a limited liability company or foreign limited liability company registered in this state that intends to adopt that name;</p> <p>(c) a foreign limited liability company intending to register in this state and to adopt that name; or</p> <p>(d) a person intending to organize a foreign limited liability company and to have it registered in this state and to adopt that name.</p> <p>(2) The reservation must be made by filing with the secretary of state an application, executed by the applicant, to reserve a specified name. If</p>

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to the [Secretary of State] for filing a signed notice of the transfer which states the name and address of the transferee.	the secretary of state finds that the name is available for use by a domestic or foreign limited liability company, the secretary of state shall reserve the name for the exclusive use of the applicant for a nonrenewable period of 120 days from the date the application is filed. (3) The right to the exclusive use of a reserved name may be transferred to another person by filing with the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved, and by specifying the name to be transferred and the name and address of the transferee. The transfer may not extend the term during which the name is reserved.
<p>SECTION 110. OPERATING AGREEMENT; SCOPE, FUNCTION, AND LIMITATIONS.</p> <p>(a) Except as otherwise provided in subsections (b) and (c), the operating agreement governs:</p> <p>(1) relations among the members as members and between the members and the limited liability company;</p> <p>(2) the rights and duties under this [act] of a person in the capacity of manager;</p> <p>(3) the activities of the company and the conduct of those activities; and</p> <p>(4) the means and conditions for amending the operating agreement.</p> <p>(b) To the extent the operating agreement does not otherwise provide for a matter described in subsection (a), this [act] governs the matter.</p> <p>(c) An operating agreement may not:</p> <p>(1) vary a limited liability company's capacity under Section 105 to sue and be sued in its own name;</p> <p>(2) vary the law applicable under Section 106;</p> <p>(3) vary the power of the court under Section 204;</p> <p>(4) subject to subsections (d) through (g), eliminate the duty of loyalty, the duty of care, or any other fiduciary duty;</p> <p>(5) subject to subsections (d) through (g), eliminate the contractual</p>	<p>35-8-109 Effect of operating agreement -- nonwaivable provisions.</p> <p>(1) Except as provided in subsection (2), all members of a limited liability company may enter into an operating agreement, which need not be in writing, to regulate the affairs of the company and the conduct of its business and to govern relations among the members, managers, and company. To the extent that the operating agreement does not otherwise provide, this chapter governs relations among the members, managers, and company.</p> <p>(2) An operating agreement need not be in writing except as otherwise provided in this chapter to:</p> <p>(a) vary the recordkeeping requirements under 35-8-405;</p> <p>(b) vary the rights of members to share in distributions under 35-8-601 or 35-8-903; or</p> <p>(c) vary the process for admission of members under 35-8-707.</p> <p>(3) The operating agreement may not:</p> <p>(a) unreasonably restrict a right to information or access to records under 35-8-405;</p> <p>(b) eliminate the duty of loyalty under 35-8-310, but the agreement may:</p> <p>(i) identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable; and</p> <p>(ii) specify the number or percentage of members or disinterested managers that may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;</p>

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<p>obligation of good faith and fair dealing under Section 409(d);</p> <p>(6) unreasonably restrict the duties and rights stated in Section 410;</p> <p>(7) vary the power of a court to decree dissolution in the circumstances specified in Section 701(a)(4) and (5);</p> <p>(8) vary the requirement to wind up a limited liability company's business as specified in Section 702(a) and (b)(1);</p> <p>(9) unreasonably restrict the right of a member to maintain an action under [Article] 9;</p> <p>(10) restrict the right to approve a merger, conversion, or domestication under Section 1014 to a member that will have personal liability with respect to a surviving, converted, or domesticated organization; or</p> <p>(11) except as otherwise provided in Section 112(b), restrict the rights under this [act] of a person other than a member or manager.</p> <p>(d) If not manifestly unreasonable, the operating agreement may:</p> <p>(1) restrict or eliminate the duty:</p> <p>(A) as required in Section 409(b)(1) and (g), to account to the limited liability company and to hold as trustee for it any property, profit, or benefit derived by the member in the conduct or winding up of the company's business, from a use by the member of the company's property, or from the appropriation of a limited liability company opportunity;</p> <p>(B) as required in Section 409(b)(2) and (g), to refrain from dealing with the company in the conduct or winding up of the company's business as or on behalf of a party having an interest adverse to the company; and</p> <p>(C) as required by Section 409(b)(3) and (g), to refrain from competing with the company in the conduct of the company's business before the dissolution of the company;</p> <p>(2) identify specific types or categories of activities that do not violate the duty of loyalty;</p>	<p>(c) unreasonably reduce the duty of care under 35-8-310;</p> <p>(d) eliminate the obligation of good faith and fair dealing under 35-8-310, but the operating agreement may determine the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;</p> <p>(e) vary the right to expel a member upon the occurrence of an event specified in 35-8-803;</p> <p>(f) vary the requirement to wind up the limited liability company's business in a case specified in 35-8-901(1)(c) or 35-8-902; or</p> <p>(g) restrict the rights of a person under this chapter, other than a manager, member, or transferee of a member's distributional interest.</p> <p>35-8-202. (Effective October 1, 2008) Articles of organization.</p> <p>(1) The articles of organization must set forth:</p> <p>(a) the name of the limited liability company that satisfies the requirements of 35-8-103;</p> <p>(b) whether the company is a term company and, if so, the term specified;</p> <p>(c) the complete street address of its principal office, wherever located;</p> <p>(d) the information required by 35-7-105(1);</p> <p>(e) (i) if the limited liability company is to be managed by a manager or managers, a statement that the company is to be managed in that fashion and the names and street addresses of managers who are to serve as managers until the first meeting of members or until their successors are elected;</p> <p>(ii) if the management of a limited liability company is reserved to the members, a statement that the company is to be managed in that fashion and the names and street addresses of the initial members;</p> <p>(f) whether one or more members of the company are to be liable for the limited liability company's debts and obligations under 35-8-304(3);</p> <p>(g) if the limited liability company is a professional limited liability company, a statement to that effect and a statement of the professional service or services it will render; and</p> <p>(h) any other provision, not inconsistent with law, that the members elect to set out in the articles,</p>

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<p>(3) alter the duty of care, except to authorize intentional misconduct or knowing violation of law;</p> <p>(4) alter any other fiduciary duty, including eliminating particular aspects of that duty; and</p> <p>(5) prescribe the standards by which to measure the performance of the contractual obligation of good faith and fair dealing under Section 409(d).</p> <p>(e) The operating agreement may specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts.</p> <p>(f) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of a responsibility that the member would otherwise have under this [act] and imposes the responsibility on one or more other members, the operating agreement may, to the benefit of the member that the operating agreement relieves of the responsibility, also eliminate or limit any fiduciary duty that would have pertained to the responsibility.</p> <p>(g) The operating agreement may alter or eliminate the indemnification for a member or manager provided by Section 408(a) and may eliminate or limit a member or manager's liability to the limited liability company and members for money damages, except for:</p> <p>(1) breach of the duty of loyalty;</p> <p>(2) a financial benefit received by the member or manager to which the member or manager is not entitled;</p> <p>(3) a breach of a duty under Section 406;</p> <p>(4) intentional infliction of harm on the company or a member; or</p> <p>(5) an intentional violation of criminal law.</p> <p>(h) The court shall decide any claim under subsection (d) that a term of an</p>	<p>including but not limited to a statement of whether there are limitations on the authority of members or management to bind the limited liability company.</p> <p>(2) It is not necessary to set out in the articles of organization any of the powers enumerated in 35-8-107.</p> <p>(3) The articles of organization may not vary the nonwaivable provisions set out in 35-8-109. As to all other matters, if any provision of an operating agreement is inconsistent with the articles of organization:</p> <p>(a) the operating agreement controls as to managers, members, and a member's transferee; and</p> <p>(b) the articles of organization control as to a person, other than a manager, member, and member's transferee, that reasonably relies on the articles of organization to that person's detriment.</p> <p>35-8-411 Continuation of term company after expiration of specified term.</p> <p>(1) If a term company is continued after the expiration of the specified term, the rights and duties of the members and managers remain the same as they were at the expiration of the term except to the extent inconsistent with rights and duties of members and managers of an at-will company.</p> <p>(2) If the members in a member-managed term company or the managers in a manager-managed term company continue the business without any winding up of the business of the company, it continues as an at-will company.</p>

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<p>operating agreement is manifestly unreasonable. The court:</p> <p style="padding-left: 40px;">(1) shall make its determination as of the time the challenged term became part of the operating agreement and by considering only circumstances existing at that time; and</p> <p style="padding-left: 40px;">(2) may invalidate the term only if, in light of the purposes and activities of the limited liability company, it is readily apparent that:</p> <p style="padding-left: 80px;">(A) the objective of the term is unreasonable; or</p> <p style="padding-left: 80px;">(B) the term is an unreasonable means to achieve the provision's objective.</p>	
<p>SECTION 111. OPERATING AGREEMENT; EFFECT ON LIMITED LIABILITY COMPANY AND PERSONS BECOMING MEMBERS; PREFORMATION AGREEMENT.</p> <p>(a) A limited liability company is bound by and may enforce the operating agreement, whether or not the company has itself manifested assent to the operating agreement.</p> <p>(b) A person that becomes a member of a limited liability company is deemed to assent to the operating agreement.</p> <p>(c) Two or more persons intending to become the initial members of a limited liability company may make an agreement providing that upon the formation of the company the agreement will become the operating agreement. One person intending to become the initial member of a limited liability company may assent to terms providing that upon the formation of the company the terms will become the operating agreement.</p>	
<p>SECTION 112. OPERATING AGREEMENT; EFFECT ON THIRD PARTIES AND RELATIONSHIP TO RECORDS EFFECTIVE ON BEHALF OF LIMITED LIABILITY COMPANY.</p> <p>(a) An operating agreement may specify that its amendment requires the approval of a person that is not a party to the operating agreement or the satisfaction of a condition. An amendment is ineffective if its adoption does not include the required</p>	

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<p>approval or satisfy the specified condition.</p> <p>(b) The obligations of a limited liability company and its members to a person in the person's capacity as a transferee or dissociated member are governed by the operating agreement. Subject only to any court order issued under Section 503(b)(2) to effectuate a charging order, an amendment to the operating agreement made after a person becomes a transferee or dissociated member is effective with regard to any debt, obligation, or other liability of the limited liability company or its members to the person in the person's capacity as a transferee or dissociated member.</p> <p>(c) If a record that has been delivered by a limited liability company to the [Secretary of State] for filing and has become effective under this [act] contains a provision that would be ineffective under Section 110(c) if contained in the operating agreement, the provision is likewise ineffective in the record.</p> <p>(d) Subject to subsection (c), if a record that has been delivered by a limited liability company to the [Secretary of State] for filing and has become effective under this [act] conflicts with a provision of the operating agreement:</p> <p>(1) the operating agreement prevails as to members, dissociated members, transferees, and managers; and</p> <p>(2) the record prevails as to other persons to the extent they reasonably rely on the record.</p>	
<p>SECTION 113. OFFICE AND AGENT FOR SERVICE OF PROCESS.</p> <p>(a) A limited liability company shall designate and continuously maintain in this state:</p> <p>(1) an office, which need not be a place of its activity in this state; and</p> <p>(2) an agent for service of process.</p> <p>(b) A foreign limited liability company that has a certificate of authority under Section 802 shall designate and continuously maintain in this state an agent for service of process.</p> <p>(c) An agent for service of process of</p>	<p>35-8-1101 Suits by and against limited liability company.</p> <p>Suit may be brought by or against a limited liability company in its own name.</p>

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<p>a limited liability company or foreign limited liability company must be an individual who is a resident of this state or other person with authority to transact business in this state.</p> <p>SECTION 114. CHANGE OF DESIGNATED OFFICE OR AGENT FOR SERVICE OF PROCESS.</p> <p>(a) A limited liability company or foreign limited liability company may change its designated office, its agent for service of process, or the address of its agent for service of process by delivering to the [Secretary of State] for filing a statement of change containing:</p> <ul style="list-style-type: none"> (1) the name of the company; (2) the street and mailing addresses of its current designated office; (3) if the current designated office is to be changed, the street and mailing addresses of the new designated office; (4) the name and street and mailing addresses of its current agent for service of process; and (5) if the current agent for service of process or an address of the agent is to be changed, the new information. <p>(b) Subject to Section 205(c), a statement of change is effective when filed by the [Secretary of State].</p> <p>SECTION 115. RESIGNATION OF AGENT FOR SERVICE OF PROCESS.</p> <p>(a) To resign as an agent for service of process of a limited liability company or foreign limited liability company, the agent must deliver to the [Secretary of State] for filing a statement of resignation containing the company name and stating that the agent is resigning.</p> <p>(b) The [Secretary of State] shall file a statement of resignation delivered under subsection (a) and mail or otherwise provide or deliver a copy to the designated office of the limited liability company or foreign limited liability company and another copy to the principal office of the company if the mailing addresses of the principal office appears in the records of the [Secretary of</p>	

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<p>State] and is different from the mailing address of the designated office.</p> <p>(c) An agency for service of process terminates on the earlier of:</p> <p>(1) the 31st day after the [Secretary of State] files the statement of resignation;</p> <p>(2) when a record designating a new agent for service of process is delivered to the [Secretary of State] for filing on behalf of the limited liability company and becomes effective.</p>	
<p>SECTION 116. SERVICE OF PROCESS.</p> <p>(a) An agent for service of process appointed by a limited liability company or foreign limited liability company is an agent of the company for service of any process, notice, or demand required or permitted by law to be served on the company.</p> <p>(b) If a limited liability company or foreign limited liability company does not appoint or maintain an agent for service of process in this state or the agent for service of process cannot with reasonable diligence be found at the agent's street address, the [Secretary of State] is an agent of the company upon whom process, notice, or demand may be served.</p> <p>(c) Service of any process, notice, or demand on the [Secretary of State] as agent for a limited liability company or foreign limited liability company may be made by delivering to the [Secretary of State] duplicate copies of the process, notice, or demand. If a process, notice, or demand is served on the [Secretary of State], the [Secretary of State] shall forward one of the copies by registered or certified mail, return receipt requested, to the company at its designated office.</p> <p>(d) Service is effected under subsection (c) at the earliest of:</p> <p>(1) the date the limited liability company or foreign limited liability company receives the process, notice, or demand;</p> <p>(2) the date shown on the return receipt, if signed on behalf of the company; or</p> <p>(3) five days after the process, notice, or demand is deposited with the United States Postal Service, if correctly</p>	

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<p>addressed and with sufficient postage.</p> <p>(e) The [Secretary of State] shall keep a record of each process, notice, and demand served pursuant to this section and record the time of, and the action taken regarding, the service.</p> <p>(f) This section does not affect the right to serve process, notice, or demand in any other manner provided by law.</p>	
<p>SECTION 201. FORMATION OF LIMITED LIABILITY COMPANY; CERTIFICATE OF ORGANIZATION.</p> <p>(a) One or more persons may act as organizers to form a limited liability company by signing and delivering to the [Secretary of State] for filing a certificate of organization.</p> <p>(b) A certificate of organization must state:</p> <p>(1) the name of the limited liability company, which must comply with Section 108;</p> <p>(2) the street and mailing addresses of the initial designated office and the name and street and mailing addresses of the initial agent for service of process of the company; and</p> <p>(3) if the company will have no members when the [Secretary of State] files the certificate, a statement to that effect.</p> <p>(c) Subject to Section 112(c), a certificate of organization may also contain statements as to matters other than those required by subsection (b). However, a statement in a certificate of organization is not effective as a statement of authority.</p> <p>(d) Unless the filed certificate of organization contains the statement as provided in subsection (b)(3), the following rules apply:</p> <p>(1) A limited liability company is formed when the [Secretary of State] has filed the certificate of organization and the company has at least one member, unless the certificate states a delayed effective date pursuant to Section 205(c).</p> <p>(2) If the certificate states a delayed effective date, a limited liability company is not formed if, before the certificate takes effect, a statement of</p>	<p>35-8-201 Formation.</p> <p>(1) One or more persons may form a limited liability company consisting of one or more members by signing and filing articles of organization with the secretary of state. The person or persons need not be members of the limited liability company at the time of formation or after formation has occurred. A limited liability company is a legal entity distinct from its members.</p> <p>(2) Unless a delayed effective date is specified, the existence of a limited liability company begins when the articles of organization are filed.</p> <p>(3) The filing of the articles of organization by the secretary of state pursuant to 35-8-205 is conclusive proof that the organizers have satisfied all conditions precedent to the creation of a limited liability company.</p> <p>35-8-206 Effect of filing articles of organization.</p> <p>(1) A limited liability company is formed when the articles of organization are filed with the secretary of state for filing.</p> <p>(2) The articles of organization that are stamped "filed" and marked with the filing date are conclusive evidence that all conditions precedent required to be performed by the organizers have been complied with and that the limited liability company has been legally organized and formed under this chapter.</p> <p>35-8-207 Filing of facsimile copy.</p> <p>(1) The secretary of state may treat a facsimile copy of a document that is required to be filed under this chapter and the signatures on the facsimile copy in the same manner as an original for purposes of this chapter. If all other requirements are met, the date of filing relates back to the date of receipt of the facsimile copy.</p>

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<p>cancellation is signed and delivered to the [Secretary of State] for filing and the [Secretary of State] files the certificate.</p> <p>(3) Subject to any delayed effective date and except in a proceeding by this state to dissolve a limited liability company, the filing of the certificate of organization by the [Secretary of State] is conclusive proof that the organizer satisfied all conditions to the formation of a limited liability company.</p> <p>(e) If a filed certificate of organization contains a statement as provided in subsection (b)(3), the following rules apply:</p> <p>(1) The certificate lapses and is void unless, within [90] days from the date the [Secretary of State] files the certificate, an organizer signs and delivers to the [Secretary of State] for filing a notice stating:</p> <p>(A) that the limited liability company has at least one member; and</p> <p>(B) the date on which a person or persons became the company's initial member or members.</p> <p>(2) If an organizer complies with paragraph (1), a limited liability company is deemed formed as of the date of initial membership stated in the notice delivered pursuant to paragraph (1).</p> <p>(3) Except in a proceeding by this state to dissolve a limited liability company, the filing of the notice described in paragraph (1) by the [Secretary of State] is conclusive proof that the organizer satisfied all conditions to the formation of a limited liability company.</p>	<p>(2) A person who files a false document by facsimile copy is liable to the party aggrieved for three times the amount of damages resulting from the filing of the false document.</p>
<p>SECTION 202. AMENDMENT OR RESTATEMENT OF CERTIFICATE OF ORGANIZATION.</p> <p>(a) A certificate of organization may be amended or restated at any time.</p> <p>(b) To amend its certificate of organization, a limited liability company must deliver to the [Secretary of State] for filing an amendment stating:</p> <p>(1) the name of the company;</p> <p>(2) the date of filing of its certificate of organization; and</p> <p>(3) the changes the amendment makes to the certificate as most</p>	<p>35-8-203 Amendment of articles of organization -- restatement.</p> <p>(1) The articles of organization of a limited liability company are amended by filing articles of amendment with the secretary of state. The articles of amendment must set forth:</p> <p>(a) the name of the limited liability company;</p> <p>(b) the date the articles of organization were filed; and</p> <p>(c) the amendment to the articles of organization.</p> <p>(2) The articles of organization may be amended as desired, so long as the amended</p>

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<p>recently amended or restated.</p> <p>(c) To restate its certificate of organization, a limited liability company must deliver to the [Secretary of State] for filing a restatement, designated as such in its heading, stating:</p> <p>(1) in the heading or an introductory paragraph, the company's present name and the date of the filing of the company's initial certificate of organization;</p> <p>(2) if the company's name has been changed at any time since the company's formation, each of the company's former names; and</p> <p>(3) the changes the restatement makes to the certificate as most recently amended or restated.</p> <p>(d) Subject to Sections 112(c) and 205(c), an amendment to or restatement of a certificate of organization is effective when filed by the [Secretary of State].</p> <p>(e) If a member of a member-managed limited liability company, or a manager of a manager-managed limited liability company, knows that any information in a filed certificate of organization was inaccurate when the certificate was filed or has become inaccurate owing to changed circumstances, the member or manager shall promptly:</p> <p>(1) cause the certificate to be amended; or</p> <p>(2) if appropriate, deliver to the [Secretary of State] for filing a statement of change under Section 114 or a statement of correction under Section 206.</p>	<p>articles of organization contain only provisions that may be lawfully contained in articles of organization at the time of making the amendment.</p> <p>(3) Articles of organization may be restated at any time. Restated articles of organization must be filed with the secretary of state, must be specifically designated as such in the heading, and must state either in the heading or in an introductory paragraph the limited liability company's present name and, if it has been changed, all of its former names and the date of the filing of its articles of organization. Restated articles of organization supersede the original articles of organization and any previous amendments to the original articles of organization.</p> <p>(4) An amendment to the articles of organization of a limited liability company must be in the form and manner designated by the secretary of state.</p>
<p>SECTION 203. SIGNING OF RECORDS TO BE DELIVERED FOR FILING TO [SECRETARY OF STATE].</p> <p>(a) A record delivered to the [Secretary of State] for filing pursuant to this [act] must be signed as follows:</p> <p>(1) Except as otherwise provided in paragraphs (2) through (4), a record signed on behalf of a limited liability company must be signed by a person authorized by the company.</p> <p>(2) A limited liability company's initial certificate of organization</p>	<p>35-8-204 Execution of documents.</p> <p>(1) Unless otherwise specified in this chapter, a document required by this chapter to be filed with or delivered to the secretary of state must be executed:</p> <p>(a) by any manager if management of the limited liability company is vested in one or more managers or by a member if management of the limited liability company is reserved to the members;</p> <p>(b) if the limited liability company has not been formed, by the person or persons forming the limited liability company; or</p>

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<p>must be signed by at least one person acting as an organizer.</p> <p>(3) A notice under Section 201(e)(1) must be signed by an organizer.</p> <p>(4) A record filed on behalf of a dissolved limited liability company that has no members must be signed by the person winding up the company's activities under Section 702(c) or a person appointed under Section 702(d) to wind up those activities.</p> <p>(5) A statement of cancellation under Section 201(d)(2) must be signed by each organizer that signed the initial certificate of organization, but a personal representative of a deceased or incompetent organizer may sign in the place of the decedent or incompetent.</p> <p>(6) A statement of denial by a person under Section 303 must be signed by that person.</p> <p>(7) Any other record must be signed by the person on whose behalf the record is delivered to the [Secretary of State].</p> <p>(b) Any record filed under this [act] may be signed by an agent.</p>	<p>(c) if the limited liability company is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.</p> <p>(2) The person executing the document shall sign it and state, beneath or opposite the signature, the person's name and the capacity in which the person signs.</p> <p>(3) The person executing the document may do so as an attorney-in-fact. Powers of attorney relating to the execution of the document do not need to be shown to or filed with the secretary of state.</p>
<p>SECTION 204. SIGNING AND FILING PURSUANT TO JUDICIAL ORDER.</p> <p>(a) If a person required by this [act] to sign a record or deliver a record to the [Secretary of State] for filing under [this act] does not do so, any other person that is aggrieved may petition the [appropriate court] to order:</p> <p>(1) the person to sign the record;</p> <p>(2) the person to deliver the record to the [Secretary of State] for filing; or</p> <p>(3) the [Secretary of State] to file the record unsigned.</p> <p>(b) If a petitioner under subsection (a) is not the limited liability company or foreign limited liability company to which the record pertains, the petitioner shall make the company a party to the action.</p>	<p>35-8-218 Filing by judicial act.</p> <p>If a person required by 35-8-204 to execute any record or document fails or refuses to do so, a person who is adversely affected by the failure or refusal may petition a district court to direct the signing of the record or document. If the court finds that it is proper for the record or document to be signed and that a designated person has failed or refused to sign the record, it shall order the secretary of state to sign and file an appropriate record or document.</p>
<p>SECTION 205. DELIVERY TO AND FILING OF RECORDS BY [SECRETARY OF STATE]; EFFECTIVE TIME AND DATE.</p> <p>(a) A record authorized or required to be delivered to the [Secretary of State] for</p>	<p>35-8-205 Filing with secretary of state.</p> <p>(1) The articles of organization or any other document required to be filed pursuant to this chapter must be delivered to the secretary of state. If the secretary of state determines that</p>

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<p>filing under this [act] must be captioned to describe the record's purpose, be in a medium permitted by the [Secretary of State], and be delivered to the [Secretary of State]. If the filing fees have been paid, unless the [Secretary of State] determines that a record does not comply with the filing requirements of this [act], the [Secretary of State] shall file the record and:</p> <p>(1) for a statement of denial under Section 303, send a copy of the filed statement and a receipt for the fees to the person on whose behalf the statement was delivered for filing and to the limited liability company; and</p> <p>(2) for all other records, send a copy of the filed record and a receipt for the fees to the person on whose behalf the record was filed.</p> <p>(b) Upon request and payment of the requisite fee, the [Secretary of State] shall send to the requester a certified copy of a requested record.</p> <p>(c) Except as otherwise provided in Sections 115 and 206 and except for a certificate of organization that contains a statement as provided in Section 201(b)(3), a record delivered to the [Secretary of State] for filing under this [act] may specify an effective time and a delayed effective date. Subject to Sections 115, 201(d)(1), and 206, a record filed by the [Secretary of State] is effective:</p> <p>(1) if the record does not specify either an effective time or a delayed effective date, on the date and at the time the record is filed as evidenced by the [Secretary of State's] endorsement of the date and time on the record;</p> <p>(2) if the record specifies an effective time but not a delayed effective date, on the date the record is filed at the time specified in the record;</p> <p>(3) if the record specifies a delayed effective date but not an effective time, at 12:01 a.m. on the earlier of:</p> <p>(A) the specified date;</p> <p>or</p> <p>(B) the 90th day after the record is filed; or</p>	<p>the documents conform to the filing provisions of this chapter and that all required filing fees have been paid, the secretary of state shall:</p> <p>(a) endorse on the signed document the word "filed" and the date and time of accepting the document for filing;</p> <p>(b) retain the signed document in the secretary of state's files; and</p> <p>(c) send a certification letter to the person who filed the document or to the person's representative.</p> <p>(2) If the secretary of state is unable to make the determination required for filing by subsection (1) at the time any documents are delivered for filing, the documents are considered to have been filed at the time of delivery if the secretary of state subsequently determines that the documents as delivered conform to the filing provisions of 35-8-201 through 35-8-211.</p>

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<p>(4) if the record specifies an effective time and a delayed effective date, at the specified time on the earlier of:</p> <p style="padding-left: 40px;">(A) the specified date;</p> <p>or</p> <p style="padding-left: 40px;">(B) the 90th day after the record is filed.</p>	
<p>SECTION 206. CORRECTING FILED RECORD.</p> <p>(a) A limited liability company or foreign limited liability company may deliver to the [Secretary of State] for filing a statement of correction to correct a record previously delivered by the company to the [Secretary of State] and filed by the [Secretary of State], if at the time of filing the record contained inaccurate information or was defectively signed.</p> <p>(b) A statement of correction under subsection (a) may not state a delayed effective date and must:</p> <p style="padding-left: 40px;">(1) describe the record to be corrected, including its filing date, or attach a copy of the record as filed;</p> <p style="padding-left: 40px;">(2) specify the inaccurate information and the reason it is inaccurate or the manner in which the signing was defective; and</p> <p style="padding-left: 40px;">(3) correct the defective signature or inaccurate information.</p> <p>(c) When filed by the [Secretary of State], a statement of correction under subsection (a) is effective retroactively as of the effective date of the record the statement corrects, but the statement is effective when filed:</p> <p style="padding-left: 40px;">(1) for the purposes of Section 103(d); and</p> <p style="padding-left: 40px;">(2) as to persons that previously relied on the uncorrected record and would be adversely affected by the retroactive effect.</p>	<p>35-8-215 Correcting filed record.</p> <p>(1) A limited liability company or foreign limited liability company may correct a record filed by the secretary of state if the record contains a false or erroneous statement or was defectively signed.</p> <p>(2) A record must be corrected by:</p> <p style="padding-left: 20px;">(a) preparing articles of correction that:</p> <p style="padding-left: 40px;">(i) describe the record, including its filing date, or have attached a copy of the record to the articles of correction;</p> <p style="padding-left: 40px;">(ii) specify the incorrect statement and the reason that it is incorrect or the manner in which the signing was defective; and</p> <p style="padding-left: 40px;">(iii) correct the incorrect statement or defective signing; and</p> <p style="padding-left: 20px;">(b) delivering the corrected record to the secretary of state for filing.</p> <p>(3) Articles of correction are effective retroactively on the effective date of the record that they correct except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the articles of correction are effective when filed.</p>
<p>SECTION 207. LIABILITY FOR INACCURATE INFORMATION IN FILED RECORD.</p> <p>(a) If a record delivered to the [Secretary of State] for filing under this [act] and filed by the [Secretary of State] contains inaccurate information, a person that suffers a loss by reliance on the information may recover damages for the loss from:</p> <p style="padding-left: 40px;">(1) a person that signed the</p>	<p>35-8-217 Liability for false statement in filed record.</p> <p>Subject to 35-8-304 and 35-8-306, if a record authorized or required to be filed under this chapter contains a false statement, a person who suffers loss by reliance on the statement may recover damages for the loss from the person who signed the record or caused another to sign it on that person's behalf and</p>

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<p>record, or caused another to sign it on the person's behalf, and knew the information to be inaccurate at the time the record was signed; and</p> <p>(2) subject to subsection (b), a member of a member-managed limited liability company or the manager of a manager-managed limited liability company, if:</p> <p>(A) the record was delivered for filing on behalf of the company; and</p> <p>(B) the member or manager had notice of the inaccuracy for a reasonably sufficient time before the information was relied upon so that, before the reliance, the member or manager reasonably could have:</p> <p>(i) effected an amendment under Section 202;</p> <p>(ii) filed a petition under Section 204; or</p> <p>(iii) delivered to the [Secretary of State] for filing a statement of change under Section 114 or a statement of correction under Section 206.</p> <p>(b) To the extent that the operating agreement of a member-managed limited liability company expressly relieves a member of responsibility for maintaining the accuracy of information contained in records delivered on behalf of the company to the [Secretary of State] for filing under this [act] and imposes that responsibility on one or more other members, the liability stated in subsection (a)(2) applies to those other members and not to the member that the operating agreement relieves of the responsibility.</p> <p>(c) An individual who signs a record authorized or required to be filed under this [act] affirms under penalty of perjury that the information stated in the record is accurate.</p>	<p>who knew the statement to be false at the time that the record was signed.</p>
<p>SECTION 208. CERTIFICATE OF EXISTENCE OR AUTHORIZATION.</p> <p>(a) The [Secretary of State], upon request and payment of the requisite fee, shall furnish to any person a certificate of existence for a limited liability company if the records filed in the [office of the Secretary of</p>	<p>35-8-216 Certificate of existence or authority.</p> <p>(1) A person may request the secretary of state to furnish a certificate of existence for a limited liability company or a certificate of authority for a foreign limited liability company.</p> <p>(2) A certificate of existence for a limited liability company must set forth:</p>

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<p>State] show that the company has been formed under Section 201 and the [Secretary of State] has not filed a statement of termination pertaining to the company. A certificate of existence must state:</p> <ul style="list-style-type: none"> (1) the company's name; (2) that the company was duly formed under the laws of this state and the date of formation; (3) whether all fees, taxes, and penalties due under this [act] or other law to the [Secretary of State] have been paid; (4) whether the company's most recent annual report required by Section 209 has been filed by the [Secretary of State]; (5) whether the [Secretary of State] has administratively dissolved the company; (6) whether the company has delivered to the [Secretary of State] for filing a statement of dissolution; (7) that a statement of termination has not been filed by the [Secretary of State]; and (8) other facts of record in the [office of the Secretary of State] which are specified by the person requesting the certificate. <p>(b) The [Secretary of State], upon request and payment of the requisite fee, shall furnish to any person a certificate of authorization for a foreign limited liability company if the records filed in the [office of the Secretary of State] show that the [Secretary of State] has filed a certificate of authority, has not revoked the certificate of authority, and has not filed a notice of cancellation. A certificate of authorization must state:</p> <ul style="list-style-type: none"> (1) the company's name and any alternate name adopted under Section 805(a) for use in this state; (2) that the company is authorized to transact business in this state; (3) whether all fees, taxes, and penalties due under this [act] or other law to the [Secretary of State] have been paid; 	<ul style="list-style-type: none"> (a) the company's name; (b) that it is organized under the laws of this state, the date of organization, whether its duration is at-will or for a specified term, and, if for a specified term, the period specified; (c) if payment is reflected in the records of the secretary of state and if nonpayment affects the existence of the company, that all fees, taxes, and penalties owed to this state have been paid; (d) whether its most recent annual report required by 35-8-208 has been filed with the secretary of state; (e) that articles of termination have not been filed; and (f) other facts of record in the office of the secretary of state if requested by the applicant. <p>(3) A certificate of authority for a foreign limited liability company must set forth:</p> <ul style="list-style-type: none"> (a) the company's name used in this state; (b) that it is authorized to transact business in this state; (c) whether its most recent annual report required by 35-8-208 has been filed with the secretary of state; (d) that a certificate of cancellation has not been filed; and (e) other facts of record in the office of the secretary of state if requested by the applicant. <p>(4) Subject to any qualification stated in the certificate, a certificate of existence or authority issued by the secretary of state may be relied upon as conclusive evidence as of the date of the certificate that the domestic or foreign limited liability company is in existence or is authorized to transact business in this state.</p>

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<p>(4) whether the company's most recent annual report required by Section 209 has been filed by the [Secretary of State];</p> <p>(5) that the [Secretary of State] has not revoked the company's certificate of authority and has not filed a notice of cancellation; and</p> <p>(6) other facts of record in the [office of the Secretary of State] which are specified by the person requesting the certificate.</p> <p>(c) Subject to any qualification stated in the certificate, a certificate of existence or certificate of authorization issued by the [Secretary of State] is conclusive evidence that the limited liability company is in existence or the foreign limited liability company is authorized to transact business in this state.</p>	
	<p>35-8-211 Fees for filing, copying, and services.</p> <p>(1) The secretary of state shall establish fees for the following:</p> <p>(a) filing documents as required by this chapter; and</p> <p>(b) copying documents, priority handling, transmitting or filing facsimile copies, and providing computer-generated information.</p> <p>(2) The fees authorized in the section must be set and deposited in accordance with 2-15-405.</p>
	<p>35-8-212 Filing fees.</p> <p>(1) In addition to the filing fee authorized by 35-8-211, the secretary of state shall charge and collect from each foreign limited liability company:</p> <p>(a) an additional filing fee at the time of filing its articles of organization; and</p> <p>(b) an additional filing fee at the time of filing an application for a certificate of authority to transact business.</p> <p>(2) The fees authorized in this section must be set and deposited in accordance with 2-15-405.</p>
<p>SECTION 209. ANNUAL REPORT FOR [SECRETARY OF STATE].</p> <p>(a) Each year, a limited liability company or a foreign limited liability company authorized to transact business in this state shall deliver to the [Secretary of State] for filing a report that states:</p> <p>(1) the name of the company;</p>	<p>35-8-208. (Effective October 1, 2008) Annual report for secretary of state.</p> <p>(1) A limited liability company or a foreign limited liability company authorized to transact business in this state shall deliver to the secretary of state, for filing, an annual report that sets forth:</p> <p>(a) the name of the limited liability company</p>

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<p>(2) the street and mailing addresses of the company's designated office and the name and street and mailing addresses of its agent for service of process in this state;</p> <p>(3) the street and mailing addresses of its principal office; and</p> <p>(4) in the case of a foreign limited liability company, the state or other jurisdiction under whose law the company is formed and any alternate name adopted under Section 805(a).</p> <p>(b) Information in an annual report under this section must be current as of the date the report is delivered to the [Secretary of State] for filing.</p> <p>(c) The first annual report under this section must be delivered to the [Secretary of State] between [January 1 and April 1] of the year following the calendar year in which a limited liability company was formed or a foreign limited liability company was authorized to transact business. A report must be delivered to the [Secretary of State] between [January 1 and April 1] of each subsequent calendar year.</p> <p>(d) If an annual report under this section does not contain the information required in subsection (a), the [Secretary of State] shall promptly notify the reporting limited liability company or foreign limited liability company and return the report to it for correction. If the report is corrected to contain the information required in subsection (a) and delivered to the [Secretary of State] within 30 days after the effective date of the notice, it is timely delivered.</p> <p>(e) If an annual report under this section contains an address of a designated office or the name or address of an agent for service of process which differs from the information shown in the records of the [Secretary of State] immediately before the annual report becomes effective, the differing information in the annual report is considered a statement of change under Section 114.</p>	<p>and the jurisdiction under whose law it is organized;</p> <p>(b) the information required by 35-7-105(1);</p> <p>(c) the address of its principal office, wherever located;</p> <p>(d) (i) if the limited liability company is managed by a manager or managers, a statement that the company is managed in that fashion and the names and street addresses of the managers;</p> <p>(ii) if the management of a limited liability company is reserved to the members, a statement to that effect;</p> <p>(e) if the limited liability company is a professional limited liability company, a statement that all of its members and not less than one-half of its managers are qualified persons with respect to the limited liability company.</p> <p>(2) Information in the annual report must be current as of the date the annual report is executed on behalf of the limited liability company.</p> <p>(3) The first annual report must be delivered to the secretary of state between January 1 and April 15 of the year following the calendar year in which a domestic limited liability company is organized or a foreign limited liability company is authorized to transact business. Subsequent annual reports must be delivered to the secretary of state between January 1 and April 15.</p> <p>(4) If an annual report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign limited liability company in writing and return the report to the limited liability company for correction.</p> <p>(5) The annual report must be executed by at least one member of the limited liability company or by the authorized agent.</p> <p>(6) A domestic professional limited liability company or a foreign professional limited liability company authorized to transact business in this state shall annually file before April 15, with each licensing authority having jurisdiction over a professional service of a type described in its articles of organization, a statement of qualification setting forth the names and addresses of the members and</p>

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	managers of the company and additional information that the licensing authority may by rule prescribe as appropriate in determining whether the company is complying with the provisions of part 13 of this chapter and rules promulgated under part 13 of this chapter. The licensing authority may charge a fee to cover the cost of filing a statement of qualification.
<p>SECTION 301. NO AGENCY POWER OF MEMBER AS MEMBER.</p> <p>(a) A member is not an agent of a limited liability company solely by reason of being a member.</p> <p>(b) A person's status as a member does not prevent or restrict law other than this [act] from imposing liability on a limited liability company because of the person's conduct.</p>	<p>35-8-301 Agency power of members and managers.</p> <p>(1) Except as provided in subsection (2), a member is an agent of the limited liability company for the purpose of its business or affairs and the act of a member, including but not limited to the execution of any instrument in the name of the limited liability company for apparently carrying on in the usual way the business or affairs of the limited liability company binds the limited liability company, unless the member so acting has, in fact, no authority to act for the limited liability company in the particular matter and the person with whom the member is dealing has knowledge of the fact that the member has no such authority.</p> <p>(2) If the articles of organization provide that management of the limited liability company is vested in a manager or managers:</p> <p>(a) a member, acting solely in the capacity as a member, may not be an agent of the limited liability company; and</p> <p>(b) a manager is an agent of the limited liability company for the purpose of its business or affairs and the act of a manager, including but not limited to the execution of any instrument in the name of the limited liability company for apparently carrying on in the usual way the business or affairs of the limited liability company binds the limited liability company, unless the manager so acting has, in fact, no authority to act for the limited liability company in the particular matter and the person with whom the manager is dealing has knowledge of the fact that the manager has no such authority.</p> <p>(3) An act of a manager or a member that is not apparently for carrying on in the usual way the business of the limited liability company does not bind the limited liability company, unless authorized in accordance with the articles of organization or the operating agreement, at the time of the transaction or at any other time.</p>

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	(4) An act of a manager or member in contravention of a restriction on authority may not bind the limited liability company to persons having knowledge of the restriction.
	35-8-302 Admissions of members and managers. (1) Except as provided in subsection (2), an admission or representation made by a member concerning the business or affairs of a limited liability company within the scope of the member's authority as provided for by this chapter is evidence against the limited liability company. (2) If the articles of organization provide that management of the limited liability company is vested in a manager or managers: (a) an admission or representation made by a manager concerning the business or affairs of a limited liability company within the scope of the manager's authority, as provided for by this chapter, is evidence against the limited liability company; and (b) the admission or representation of a member, acting solely in the capacity as a member, may not constitute evidence.
SECTION 302. STATEMENT OF AUTHORITY. (a) A limited liability company may deliver to the [Secretary of State] for filing a statement of authority. The statement: (1) must include the name of the company and the street and mailing addresses of its designated office; (2) with respect to any position that exists in or with respect to the company, may state the authority, or limitations on the authority, of all persons holding the position to: (A) execute an instrument transferring real property held in the name of the company; or (B) enter into other transactions on behalf of, or otherwise act for or bind, the company; and (3) may state the authority, or limitations on the authority, of a specific person to: (A) execute an instrument transferring real property held in the name of the company; or (B) enter into other transactions on behalf of, or otherwise act for	

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<p>or bind, the company.</p> <p>(b) To amend or cancel a statement of authority filed by the [Secretary of State] under Section 205(a), a limited liability company must deliver to the [Secretary of State] for filing an amendment or cancellation stating:</p> <p>(1) the name of the company;</p> <p>(2) the street and mailing addresses of the company's designated office;</p> <p>(3) the caption of the statement being amended or canceled and the date the statement being affected became effective; and</p> <p>(4) the contents of the amendment or a declaration that the statement being affected is canceled.</p> <p>(c) A statement of authority affects only the power of a person to bind a limited liability company to persons that are not members.</p> <p>(d) Subject to subsection (c) and Section 103(d) and except as otherwise provided in subsections (f), (g), and (h), a limitation on the authority of a person or a position contained in an effective statement of authority is not by itself evidence of knowledge or notice of the limitation by any person.</p> <p>(e) Subject to subsection (c), a grant of authority not pertaining to transfers of real property and contained in an effective statement of authority is conclusive in favor of a person that gives value in reliance on the grant, except to the extent that when the person gives value:</p> <p>(1) the person has knowledge to the contrary;</p> <p>(2) the statement has been canceled or restrictively amended under subsection (b); or</p> <p>(3) a limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective.</p> <p>(f) Subject to subsection (c), an effective statement of authority that grants authority to transfer real property held in the name of the limited liability company and</p>	

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<p>that is recorded by certified copy in the office for recording transfers of the real property is conclusive in favor of a person that gives value in reliance on the grant without knowledge to the contrary, except to the extent that when the person gives value:</p> <p>(1) the statement has been canceled or restrictively amended under subsection (b) and a certified copy of the cancellation or restrictive amendment has been recorded in the office for recording transfers of the real property; or</p> <p>(2) a limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective and a certified copy of the later-effective statement is recorded in the office for recording transfers of the real property.</p> <p>(g) Subject to subsection (c), if a certified copy of an effective statement containing a limitation on the authority to transfer real property held in the name of a limited liability company is recorded in the office for recording transfers of that real property, all persons are deemed to know of the limitation.</p> <p>(h) Subject to subsection (i), an effective statement of dissolution or termination is a cancellation of any filed statement of authority for the purposes of subsection (f) and is a limitation on authority for the purposes of subsection (g).</p> <p>(i) After a statement of dissolution becomes effective, a limited liability company may deliver to the [Secretary of State] for filing and, if appropriate, may record a statement of authority that is designated as a post-dissolution statement of authority. The statement operates as provided in subsections (f) and (g).</p> <p>(j) Unless earlier canceled, an effective statement of authority is canceled by operation of law five years after the date on which the statement, or its most recent amendment, becomes effective. This cancellation operates without need for any recording under subsection (f) or (g).</p> <p>(k) An effective statement of denial</p>	

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operates as a restrictive amendment under this section and may be recorded by certified copy for the purposes of subsection (f)(1).	
<p>SECTION 303. STATEMENT OF DENIAL. A person named in a filed statement of authority granting that person authority may deliver to the [Secretary of State] for filing a statement of denial that:</p> <p>(1) provides the name of the limited liability company and the caption of the statement of authority to which the statement of denial pertains; and</p> <p>(2) denies the grant of authority.</p>	
<p>SECTION 304. LIABILITY OF MEMBERS AND MANAGERS.</p> <p>(a) The debts, obligations, or other liabilities of a limited liability company, whether arising in contract, tort, or otherwise:</p> <p>(1) are solely the debts, obligations, or other liabilities of the company; and</p> <p>(2) do not become the debts, obligations, or other liabilities of a member or manager solely by reason of the member acting as a member or manager acting as a manager.</p> <p>(b) The failure of a limited liability company to observe any particular formalities relating to the exercise of its powers or management of its activities is not a ground for imposing liability on the members or managers for the debts, obligations, or other liabilities of the company.</p>	<p>35-8-304 Liability of members and managers to third parties.</p> <p>(1) Except as provided in subsection (3), a person who is a member or manager, or both, of a limited liability company is not liable, solely by reason of being a member or manager, or both, under a judgment, decree or order of a court, or in any other manner, for a debt, obligation, or liability of the limited liability company, whether arising in contract, tort, or otherwise or for the acts or omissions of any other member, manager, agent, or employee of the limited liability company.</p> <p>(2) The failure of a limited liability company to observe the usual company formalities or requirements relating to the exercise of its company powers or management of its business is not a ground for imposing personal liability on the members or managers of the limited liability company.</p> <p>(3) All or specified members of a limited liability company are liable in their capacity as members for all or specified debts, obligations, or liabilities of the company if:</p> <p>(a) a provision to that effect is contained in the articles of organization; and</p> <p>(b) a member named as liable has consented in writing to the adoption of the provision or to be bound by the provision.</p>
	<p>35-8-306 Limited liability company liability for member's or manager's conduct.</p> <p>A limited liability company is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission or other actionable conduct of a member or manager acting in the ordinary course of</p>

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	business of the company or with the authority of the company.
	<p>35-8-307 Management and voting.</p> <p>(1) Unless the articles of organization or the operating agreement provide otherwise, in a member-managed company:</p> <p>(a) each member has equal rights in the management and conduct of the company's business; and</p> <p>(b) except as provided in subsection (3), any matter relating to the business of the company may be decided by a majority of the members.</p> <p>(2) Unless the articles of organization or the operating agreement provide otherwise, in a manager-managed company:</p> <p>(a) each manager has equal rights in the management and conduct of the company's business;</p> <p>(b) except as provided in subsection (3), any matter relating to the business of the company may be exclusively decided by the manager or, if there is more than one manager, by a majority of the managers; and</p> <p>(c) a manager:</p> <p>(i) must be designated, appointed, elected, removed, or replaced by a vote, approval, or consent of a majority of the members; and</p> <p>(ii) holds office until a successor has been elected and qualified, unless the manager sooner resigns or is removed.</p> <p>(3) Unless the articles of organization or the operating agreement provide otherwise, the only matters of a member-managed or manager-managed company's business requiring the consent of all of the members are:</p> <p>(a) the amendment of the operating agreement under 35-8-109;</p> <p>(b) the authorization or ratification of acts or transactions under 35-8-109(3)(b)(ii) that would otherwise violate the duty of loyalty;</p> <p>(c) an amendment to the articles of organization under 35-8-203;</p> <p>(d) the compromise of an obligation to make a contribution under 35-8-502;</p> <p>(e) the compromise, as among members, of an obligation to make a contribution or return money or other property paid or distributed in violation of this chapter;</p> <p>(f) the making of interim distributions under 35-8-601, including the redemption or repurchase of</p>

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	<p>an interest;</p> <p>(g) the admission of a new member;</p> <p>(h) the use of the company's property to redeem an interest subject to a charging order;</p> <p>(i) the consent to dissolve the company under 35-8-901;</p> <p>(j) a waiver of the right to have the company's business wound up and the company terminated under 35-8-901;</p> <p>(k) the consent of members to merge with another entity under 35-8-1201; and</p> <p>(l) the sale, lease, exchange, or other disposal of all, or substantially all, of the company's property with or without goodwill.</p> <p>(4) Action requiring the consent of members or managers under this chapter may be taken without a meeting.</p> <p>(5) A member or manager may appoint a proxy to vote or otherwise act for the member or manager by signing an appointment instrument, either personally or by the member's or manager's attorney-in-fact.</p>
<p>SECTION 401. BECOMING MEMBER.</p> <p>(a) If a limited liability company is to have only one member upon formation, the person becomes a member as agreed by that person and the organizer of the company. That person and the organizer may be, but need not be, different persons. If different, the organizer acts on behalf of the initial member.</p> <p>(b) If a limited liability company is to have more than one member upon formation, those persons become members as agreed by the persons before the formation of the company. The organizer acts on behalf of the persons in forming the company and may be, but need not be, one of the persons.</p> <p>(c) If a filed certificate of organization contains the statement required by Section 201(b)(3), a person becomes an initial member of the limited liability company with the consent of a majority of the organizers. The organizers may consent to more than one person simultaneously becoming the company's initial members.</p> <p>(d) After formation of a limited liability company, a person becomes a member:</p> <p>(1) as provided in the</p>	

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<p>operating agreement; (2) as the result of a transaction effective under [Article] 10; (3) with the consent of all the members; or (4) if, within 90 consecutive days after the company ceases to have any members: (A) the last person to have been a member, or the legal representative of that person, designates a person to become a member; and (B) the designated person consents to become a member. (e) A person may become a member without acquiring a transferable interest and without making or being obligated to make a contribution to the limited liability company.</p>	
<p>SECTION 402. FORM OF CONTRIBUTION. A contribution may consist of tangible or intangible property or other benefit to a limited liability company, including money, services performed, promissory notes, other agreements to contribute money or property, and contracts for services to be performed.</p>	<p>35-8-501 Contributions to capital. An interest in a limited liability company may be issued in exchange for tangible or intangible property or other benefit to the company, including money, promissory notes, services performed, or other agreements to contribute cash or property or contracts for services to be performed.</p>
<p>SECTION 403. LIABILITY FOR CONTRIBUTIONS. (a) A person's obligation to make a contribution to a limited liability company is not excused by the person's death, disability, or other inability to perform personally. If a person does not make a required contribution, the person or the person's estate is obligated to contribute money equal to the value of the part of the contribution which has not been made, at the option of the company. (b) A creditor of a limited liability company which extends credit or otherwise acts in reliance on an obligation described in subsection (a) may enforce the obligation.</p>	<p>35-8-502 Liability for contribution. (1) A promise by a member to contribute to the limited liability company is not enforceable unless set out in a writing signed by the member. (2) (a) Except as provided in the articles of organization or the operating agreement, a member is obligated to the limited liability company to perform any enforceable promises to contribute cash or property or to perform services even if the member is unable to perform because of death, disability, or other reason. (b) If a member does not make the required contribution of property or services, the member is obligated, at the option of the limited liability company, to contribute cash equal to that portion of value or the stated contribution that has not been made. (3) (a) Unless otherwise provided in the articles of organization or the operating agreement, the obligation of a member to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only with the unanimous consent</p>

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	<p>of the members.</p> <p>(b) A creditor of a limited liability company who extends credit or otherwise acts in reliance on an obligation described in subsection (1), and without notice of any compromise under 35-8-307(3)(d), may enforce the original obligation.</p>
	<p>35-8-503 Sharing of profits and losses.</p> <p>Unless otherwise provided in the articles of organization or a written operating agreement, each member must be repaid that member's contributions to capital and share equally in the profits, losses, and surpluses remaining after all liabilities, including those to members, are satisfied.</p>
	<p>35-8-504 Member's and manager's rights to payments and reimbursement.</p> <p>(1) A limited liability company shall reimburse a member or manager for payments made and indemnify a member or manager for liabilities incurred by the member or manager in the ordinary course of the business of the company or for the preservation of the company's business or property.</p> <p>(2) A limited liability company shall reimburse a member for an advance to the company beyond the amount of contribution that the member agreed to make.</p> <p>(3) A payment or advance made by a member that gives rise to an obligation of a limited liability company under subsection (1) or (2) constitutes a loan to the company upon which interest accrues from the date of the payment or advance.</p> <p>(4) A member is not entitled to remuneration for services performed for a limited liability company except for reasonable compensation for services rendered in winding up the business of the company.</p>
<p>SECTION 404. SHARING OF AND RIGHT TO DISTRIBUTIONS BEFORE DISSOLUTION.</p> <p>(a) Any distributions made by a limited liability company before its dissolution and winding up must be in equal shares among members and dissociated members, except to the extent necessary to comply with any transfer effective under Section 502 and any charging order in effect under Section 503.</p> <p>(b) A person has a right to a distribution before the dissolution and</p>	<p>35-8-601 Sharing of distributions.</p> <p>Except as provided in 35-8-905, distributions of cash or other assets of a limited liability company must be shared among the members and among classes of members in the manner provided in writing in the articles of organization or the operating agreement. If the articles of organization or the operating agreement does not so provide in writing, each member shall share equally in any distribution. A member is entitled to receive distributions described in this section from a limited liability company to the</p>

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<p>winding up of a limited liability company only if the company decides to make an interim distribution. A person's dissociation does not entitle the person to a distribution.</p> <p>(c) A person does not have a right to demand or receive a distribution from a limited liability company in any form other than money. Except as otherwise provided in Section 708(c), a limited liability company may distribute an asset in kind if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.</p> <p>(d) If a member or transferee becomes entitled to receive a distribution, the member or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution.</p>	<p>extent and at the times or upon the happening of the events specified in the articles of organization or the operating agreement or at the times determined by the members or managers pursuant to 35-8-307(3)(f).</p> <p>35-8-603 Distribution in kind. Except as provided in the articles of organization or the operating agreement: (1) a member, regardless of the nature of the member's contribution, may not demand or receive any distribution from a limited liability company in any form other than cash; and (2) a member may not be compelled to accept from a limited liability company a distribution of any asset in kind to the extent that the percentage of the asset distributed to the members exceeds a percentage of that asset that is equal to the percentage in which the member shares in distributions from the limited liability company.</p> <p>35-8-606 Right to distribution. Subject to 35-8-905, when a member becomes entitled to receive a distribution, the member has the status of and is entitled to all remedies available to a creditor of the limited liability company with respect to the distribution.</p>
	<p>35-8-701 Ownership of limited liability company property. (1) Property transferred to or otherwise acquired by a limited liability company becomes property of the limited liability company. A member has no interest in specific limited liability company property. (2) Property may be acquired, held, and conveyed in the name of the limited liability company. Any estate in real property may be acquired in the name of the limited liability company, and title to any estate acquired must vest in the limited liability company rather than in the members individually.</p>
<p>SECTION 405. LIMITATIONS ON DISTRIBUTION. (a) A limited liability company may not make a distribution if after the distribution:</p> <p>(1) the company would not be able to pay its debts as they become due in the ordinary course of the company's activities; or</p>	<p>35-8-604 Distributions. (1) A distribution may not be made if, after giving effect to the distribution: (a) the limited liability company would not be able to pay its debts as they become due in the usual course of business; or (b) the limited liability company's total assets would be less than the sum of its total liabilities</p>

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<p>(2) the company's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the company were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of members whose preferential rights are superior to those of persons receiving the distribution.</p> <p>(b) A limited liability company may base a determination that a distribution is not prohibited under subsection (a) on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable under the circumstances.</p> <p>(c) Except as otherwise provided in subsection (f), the effect of a distribution under subsection (a) is measured:</p> <p>(1) in the case of a distribution by purchase, redemption, or other acquisition of a transferable interest in the company, as of the date money or other property is transferred or debt incurred by the company; and</p> <p>(2) in all other cases, as of the date:</p> <p>(A) the distribution is authorized, if the payment occurs within 120 days after that date; or</p> <p>(B) the payment is made, if the payment occurs more than 120 days after the distribution is authorized.</p> <p>(d) A limited liability company's indebtedness to a member incurred by reason of a distribution made in accordance with this section is at parity with the company's indebtedness to its general, unsecured creditors.</p> <p>(e) A limited liability company's indebtedness, including indebtedness issued in connection with or as part of a distribution, is not a liability for purposes of subsection (a) if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could be made to members under this section.</p> <p>(f) If indebtedness is issued as a</p>	<p>plus, unless the articles of organization or the operating agreement provides otherwise, the amount that would be needed, if the limited liability company were to be dissolved at the time of the distribution, to satisfy the preferential rights of other members upon dissolution that are superior to the rights of the member receiving the distribution.</p> <p>(2) The limited liability company may base a determination that a distribution is not prohibited under subsection</p> <p>(1) on either:</p> <p>(a) financial statements prepared on the basis of accounting practices and principles that are reasonable under the circumstances; or</p> <p>(b) a fair valuation or other method that is reasonable under the circumstances.</p> <p>(3) Except as provided in subsection (5), the effect of a distribution under subsection (1) is measured as of:</p> <p>(a) the date the distribution is authorized if the payment occurs within 120 days after the date of authorization; or</p> <p>(b) the date payment is made if it occurs more than 120 days after the date of authorization.</p> <p>(4) A limited liability company's indebtedness to a member incurred by reason of a distribution to be made to that member in accordance with this section is at parity with the limited liability company's indebtedness to its general unsecured creditors, except as otherwise provided by agreement.</p> <p>(5) For purposes of this section:</p> <p>(a) if terms of indebtedness provide that payment of principal and interest is to be made only if and to the extent that payment of a distribution to members could then be made under this section, indebtedness of a limited liability company, including indebtedness issued as a distribution, is not a liability for purposes of determinations made under subsection (2); and</p> <p>(b) if the indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is actually made.</p>

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<p>distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.</p> <p>(g) In subsection (a), "distribution" does not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business under a bona fide retirement plan or other benefits program.</p>	
<p>SECTION 406. LIABILITY FOR IMPROPER DISTRIBUTIONS.</p> <p>(a) Except as otherwise provided in subsection (b), if a member of a member-managed limited liability company or manager of a manager-managed limited liability company consents to a distribution made in violation of Section 405 and in consenting to the distribution fails to comply with Section 409, the member or manager is personally liable to the company for the amount of the distribution that exceeds the amount that could have been distributed without the violation of Section 405.</p> <p>(b) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of the authority and responsibility to consent to distributions and imposes that authority and responsibility on one or more other members, the liability stated in subsection (a) applies to the other members and not the member that the operating agreement relieves of authority and responsibility.</p> <p>(c) A person that receives a distribution knowing that the distribution to that person was made in violation of Section 405 is personally liable to the limited liability company but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under Section 405.</p> <p>(d) A person against which an action is commenced because the person is liable under subsection (a) may:</p> <p>(1) implead any other person that is subject to liability under subsection (a) and seek to compel contribution from the</p>	<p>35-8-605 Liability upon wrongful distribution.</p> <p>(1) A member or manager who votes for or assents to a distribution in violation of the articles of organization, the operating agreement, or 35-8-604 is personally liable to the limited liability company, but not to other persons, for the amount of the distribution that exceeds what could have been distributed without violating 35-8-604 or the articles of organization or the operating agreement if it is established that the member or manager did not perform the member's or manager's duties in compliance with 35-8-310.</p> <p>(2) A member of a manager-managed company who knew a distribution was made in violation of 35-8-604, the articles of organization, or the operating agreement is personally liable to the company, but only to the extent that the distribution received by that member exceeded the amount that could have properly been paid to that member under 35-8-604.</p> <p>(3) A member or manager against whom an action is brought under this section may implead in the action:</p> <p>(a) other members and managers who voted for or assented to the distribution in violation of subsection (1) and may compel contribution from them; and</p> <p>(b) members who received a distribution in violation of subsection (2) and may compel a contribution from the members in the amount received in violation of subsection (2).</p> <p>(4) A proceeding under this section is barred unless it is commenced within 2 years after the date of the distribution.</p>

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<p>person; and</p> <p>(2) implead any person that received a distribution in violation of subsection (c) and seek to compel contribution from the person in the amount the person received in violation of subsection (c).</p> <p>(e) An action under this section is barred if not commenced within two years after the distribution.</p>	
<p>SECTION 407. MANAGEMENT OF LIMITED LIABILITY COMPANY.</p> <p>(a) A limited liability company is a member-managed limited liability company unless the operating agreement:</p> <p>(1) expressly provides that:</p> <p>(A) the company is or will be "manager-managed";</p> <p>(B) the company is or will be "managed by managers"; or</p> <p>(C) management of the company is or will be "vested in managers"; or</p> <p>(2) includes words of similar import.</p> <p>(b) In a member-managed limited liability company, the following rules apply:</p> <p>(1) The management and conduct of the company are vested in the members.</p> <p>(2) Each member has equal rights in the management and conduct of the company's activities.</p> <p>(3) A difference arising among members as to a matter in the ordinary course of the activities of the company may be decided by a majority of the members.</p> <p>(4) An act outside the ordinary course of the activities of the company may be undertaken only with the consent of all members.</p> <p>(5) The operating agreement may be amended only with the consent of all members.</p> <p>(c) In a manager-managed limited liability company, the following rules apply:</p> <p>(1) Except as otherwise expressly provided in this [act], any matter relating to the activities of the company is</p>	

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<p>decided exclusively by the managers.</p> <p>(2) Each manager has equal rights in the management and conduct of the activities of the company.</p> <p>(3) A difference arising among managers as to a matter in the ordinary course of the activities of the company may be decided by a majority of the managers.</p> <p>(4) The consent of all members is required to:</p> <p>(A) sell, lease, exchange, or otherwise dispose of all, or substantially all, of the company's property, with or without the good will, outside the ordinary course of the company's activities;</p> <p>(B) approve a merger, conversion, or domestication under [Article] 10;</p> <p>(C) undertake any other act outside the ordinary course of the company's activities; and</p> <p>(D) amend the operating agreement.</p> <p>(5) A manager may be chosen at any time by the consent of a majority of the members and remains a manager until a successor has been chosen, unless the manager at an earlier time resigns, is removed, or dies, or, in the case of a manager that is not an individual, terminates. A manager may be removed at any time by the consent of a majority of the members without notice or cause.</p> <p>(6) A person need not be a member to be a manager, but the dissociation of a member that is also a manager removes the person as a manager. If a person that is both a manager and a member ceases to be a manager, that cessation does not by itself dissociate the person as a member.</p> <p>(7) A person's ceasing to be a manager does not discharge any debt, obligation, or other liability to the limited liability company or members which the person incurred while a manager.</p> <p>(d) An action requiring the consent of members under this [act] may be taken without a meeting, and a member may</p>	

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<p>appoint a proxy or other agent to consent or otherwise act for the member by signing an appointing record, personally or by the member's agent.</p> <p>(e) The dissolution of a limited liability company does not affect the applicability of this section. However, a person that wrongfully causes dissolution of the company loses the right to participate in management as a member and a manager.</p> <p>(f) This [act] does not entitle a member to remuneration for services performed for a member-managed limited liability company, except for reasonable compensation for services rendered in winding up the activities of the company.</p>	
	<p>35-8-702 Transfer of real property.</p> <p>(1) Except as provided in subsection (5), title to property of the limited liability company that is held in the name of the limited liability company may be transferred by an instrument of transfer executed by any member in the name of the limited liability company.</p> <p>(2) Title to property of the limited liability company that is held in the name of one or more members or managers may be transferred by an instrument of transfer executed by the persons in whose name title is held if there is an indication in the instrument transferring title to the property to them of:</p> <p>(a) their capacity as members or managers of a limited liability company; or</p> <p>(b) the existence of a limited liability company, even if the name of the limited liability company is not indicated.</p> <p>(3) Property transferred under subsection (1) or (2) may be recovered by the limited liability company if it proves that the act of the person executing the instrument of transfer did not bind the limited liability company under 35-8-301 unless the property has been transferred by the initial transferee or a person claiming through the initial transferee to a subsequent transferee who gives value without having notice that the person who executed the instrument of initial transfer lacked authority to bind the limited liability company.</p> <p>(4) Title to property of the limited liability company may be transferred free of any claims of the limited liability company or its members by</p>

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	<p>the persons in whose name title is held to a transferee who gives value without having notice that it is property of a limited liability company if title is held in the name of one or more persons other than the limited liability company and there is no indication in the instrument transferring title to the property to them of:</p> <p>(a) their capacity as members or managers of a limited liability company; or</p> <p>(b) the existence of a limited liability company.</p> <p>(5) If the articles of organization provide that management of the limited liability company is vested in a manager or managers:</p> <p>(a) title to property of the limited liability company that is held in the name of the limited liability company may be transferred by an instrument of transfer executed by any manager in the name of the limited liability company; and</p> <p>(b) a member, acting solely in the capacity of a member, may not transfer title as provided in subsection (5)(a).</p>
<p>SECTION 408. INDEMNIFICATION AND INSURANCE.</p> <p>(a) A limited liability company shall reimburse for any payment made and indemnify for any debt, obligation, or other liability incurred by a member of a member-managed company or the manager of a manager-managed company in the course of the member's or manager's activities on behalf of the company, if, in making the payment or incurring the debt, obligation, or other liability, the member or manager complied with the duties stated in Sections 405 and 409.</p> <p>(b) A limited liability company may purchase and maintain insurance on behalf of a member or manager of the company against liability asserted against or incurred by the member or manager in that capacity or arising from that status even if, under Section 110(g), the operating agreement could not eliminate or limit the person's liability to the company for the conduct giving rise to the liability.</p>	
<p>SECTION 409. STANDARDS OF CONDUCT FOR MEMBERS AND MANAGERS.</p> <p>(a) A member of a member-managed limited liability company owes to</p>	<p>35-8-310 General standards of member's and manager's conduct.</p> <p>(1) The only fiduciary duties that a member owes to a member-managed company and the other</p>

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<p>the company and, subject to Section 901 (b), the other members the fiduciary duties of loyalty and care stated in subsections (b) and (c).</p> <p>(b) The duty of loyalty of a member in a member-managed limited liability company includes the duties:</p> <p>(1) to account to the company and to hold as trustee for it any property, profit, or benefit derived by the member:</p> <p>(A) in the conduct or winding up of the company's activities;</p> <p>(B) from a use by the member of the company's property; or</p> <p>(C) from the appropriation of a limited liability company opportunity;</p> <p>(2) to refrain from dealing with the company in the conduct or winding up of the company's activities as or on behalf of a person having an interest adverse to the company; and</p> <p>(3) to refrain from competing with the company in the conduct of the company's activities before the dissolution of the company.</p> <p>(c) Subject to the business judgment rule, the duty of care of a member of a member-managed limited liability company in the conduct and winding up of the company's activities is to act with the care that a person in a like position would reasonably exercise under similar circumstances and in a manner the member reasonably believes to be in the best interests of the company. In discharging this duty, a member may rely in good faith upon opinions, reports, statements, or other information provided by another person that the member reasonably believes is a competent and reliable source for the information.</p> <p>(d) A member in a member-managed limited liability company or a manager-managed limited liability company shall discharge the duties under this [act] or under the operating agreement and exercise any rights consistently with the contractual obligation of good faith and fair</p>	<p>members are the duty of loyalty imposed by subsection (2) and the duty of care imposed by subsection (3).</p> <p>(2) A member's duty of loyalty to a member-managed company and its other members is limited to the following:</p> <p>(a) to account to the company and to hold as trustee for it any property, profit, or benefit derived by the member in the conduct or winding up of the company's business or derived from a use by the member of the company's property, including the appropriation of a company's opportunity;</p> <p>(b) to refrain from dealing with the company in the conduct or winding up of the company's business on behalf of a party or as a person having an interest adverse to the company; and</p> <p>(c) to refrain from competing with the company in the conduct of the company's business before the dissolution of the company.</p> <p>(3) A member's duty of care to a member-managed company and the other members in the conduct of and winding up of the company's business is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.</p> <p>(4) A member shall discharge the duties under this chapter or the operating agreement to a member-managed company and its other members and exercise any rights consistently with the obligation of good faith and fair dealing.</p> <p>(5) A member of a member-managed company does not violate a duty or obligation under this chapter or under the operating agreement merely because the member's conduct furthers the member's own interest.</p> <p>(6) A member of a member-managed company may lend money to and transact other business with the company. As to each loan or transaction, the rights and obligations of the member are the same as those of a person who is not a member, subject to other applicable law.</p> <p>(7) This section applies to a person winding up the limited liability company's business as the personal or legal representative of the last-surviving member as if the person were a</p>

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<p>dealing.</p> <p>(e) It is a defense to a claim under subsection (b)(2) and any comparable claim in equity or at common law that the transaction was fair to the limited liability company.</p> <p>(f) All of the members of a member-managed limited liability company or a manager-managed limited liability company may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.</p> <p>(g) In a manager-managed limited liability company, the following rules apply:</p> <p>(1) Subsections (a), (b), (c), and (e) apply to the manager or managers and not the members.</p> <p>(2) The duty stated under subsection (b)(3) continues until winding up is completed.</p> <p>(3) Subsection (d) applies to the members and managers.</p> <p>(4) Subsection (f) applies only to the members.</p> <p>(5) A member does not have any fiduciary duty to the company or to any other member solely by reason of being a member.</p>	<p>member.</p> <p>(8) In a manager-managed company:</p> <p>(a) a member who is not also a manager owes no duties to the company or to the other members solely by reason of being a member;</p> <p>(b) a manager is held to the same standards of conduct as those prescribed for members in subsections (2) through (6);</p> <p>(c) a member who pursuant to the operating agreement exercises some or all of the rights of a manager in the management and conduct of the company's business is held to the standards of conduct prescribed for members in subsections (2) through (6) to the extent that the member exercises the managerial authority vested in a manager by this chapter; and</p> <p>(d) a manager is relieved of liability imposed by law for violation of the standards prescribed for members by subsections (2) through (6) to the extent of the managerial authority delegated to the members by the operating agreement.</p>
<p>SECTION 410. RIGHT OF MEMBERS, MANAGERS, AND DISSOCIATED MEMBERS TO INFORMATION.</p> <p>(a) In a member-managed limited liability company, the following rules apply:</p> <p>(1) On reasonable notice, a member may inspect and copy during regular business hours, at a reasonable location specified by the company, any record maintained by the company regarding the company's activities, financial condition, and other circumstances, to the extent the information is material to the member's rights and duties under the operating agreement or this [act].</p> <p>(2) The company shall furnish to each member:</p> <p>(A) without demand, any information concerning the company's activities, financial condition, and other circumstances which the company knows</p>	<p>35-8-405 Records and information.</p> <p>(1) Unless otherwise provided in the articles of organization or a written operating agreement, a limited liability company shall keep at its principal place of business the following:</p> <p>(a) a current and past list, setting forth the full name and last-known mailing address of each member and manager, if any, set forth in alphabetical order;</p> <p>(b) a copy of the articles of organization and all amendments to the articles, together with executed copies of any powers of attorney pursuant to which any articles have been executed;</p> <p>(c) copies of the limited liability company's federal, state, and local income tax returns and financial statement, if any, for the 3 most recent years or, if the returns and statements were not prepared for any reason, copies of the information and statements provided to or that should have been provided to the members to</p>

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<p>and is material to the proper exercise of the member's rights and duties under the operating agreement or this [act], except to the extent the company can establish that it reasonably believes the member already knows the information; and</p> <p>(B) on demand, any other information concerning the company's activities, financial condition, and other circumstances, except to the extent the demand or information demanded is unreasonable or otherwise improper under the circumstances.</p> <p>(3) The duty to furnish information under paragraph (2) also applies to each member to the extent the member knows any of the information described in paragraph (2).</p> <p>(b) In a manager-managed limited liability company, the following rules apply:</p> <p>(1) The informational rights stated in subsection (a) and the duty stated in subsection (a)(3) apply to the managers and not the members.</p> <p>(2) During regular business hours and at a reasonable location specified by the company, a member may obtain from the company and inspect and copy full information regarding the activities, financial condition, and other circumstances of the company as is just and reasonable if:</p> <p>(A) the member seeks the information for a purpose material to the member's interest as a member;</p> <p>(B) the member makes a demand in a record received by the company, describing with reasonable particularity the information sought and the purpose for seeking the information; and</p> <p>(C) the information sought is directly connected to the member's purpose.</p> <p>(3) Within 10 days after receiving a demand pursuant to paragraph (2)(B), the company shall in a record inform the member that made the demand:</p> <p>(A) of the information that the company will provide in response to the demand and when and where the company will provide the information; and</p>	<p>enable them to prepare their federal, state, and local tax returns for the period;</p> <p>(d) copies of any effective written operating agreements and all amendments and copies of any written operating agreements no longer in effect;</p> <p>(e) unless provided in writing in an operating agreement:</p> <p>(i) a writing, if any, setting forth the amount of cash, the agreed value of other property or services contributed by each member, and the times or events upon which any additional contributions agreed to by each member are to be made;</p> <p>(ii) a writing, if any, stating events that require the limited liability company to be dissolved and its affairs wound up; and</p> <p>(iii) other writings, if any, prepared pursuant to a requirement in an operating agreement.</p> <p>(2) (a) A member may, at the member's own expense, inspect and copy any limited liability company record, wherever the record is located, upon reasonable request during ordinary business hours.</p> <p>(b) A former member and agents or attorneys of a former member must be provided access and the same right to copy records pertaining to the period that the former member was a member.</p> <p>(3) Members, if the management of the limited liability company is vested in the members, or managers, if management of the limited liability company is vested in the managers, shall render, to the extent the circumstances make it just and reasonable, true and full information of all things affecting the members to any member and to the legal representative of any deceased member or of any member under legal disability.</p> <p>(4) Failure of the limited liability company to keep or maintain any of the records or information required pursuant to this section may not be grounds for imposing liability on any person for the debts and obligations of the limited liability company.</p>

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<p>(B) if the company declines to provide any demanded information, the company's reasons for declining.</p> <p>(4) Whenever this [act] or an operating agreement provides for a member to give or withhold consent to a matter, before the consent is given or withheld, the company shall, without demand, provide the member with all information that is known to the company and is material to the member's decision.</p> <p>(c) On 10 days' demand made in a record received by a limited liability company, a dissociated member may have access to information to which the person was entitled while a member if the information pertains to the period during which the person was a member, the person seeks the information in good faith, and the person satisfies the requirements imposed on a member by subsection (b)(2). The company shall respond to a demand made pursuant to this subsection in the manner provided in subsection (b)(3).</p> <p>(d) A limited liability company may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.</p> <p>(e) A member or dissociated member may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the operating agreement or under subsection (g) applies both to the agent or legal representative and the member or dissociated member.</p> <p>(f) The rights under this section do not extend to a person as transferee.</p> <p>(g) In addition to any restriction or condition stated in its operating agreement, a limited liability company, as a matter within the ordinary course of its activities, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and</p>	

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safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection, the company has the burden of proving reasonableness.	
<p>SECTION 501. NATURE OF TRANSFERABLE INTEREST. A transferable interest is personal property.</p>	<p>35-8-703 Nature of distributional interest.</p> <p>(1) A member is not a co-owner of, and does not have a transferable interest in, property of a limited liability company.</p> <p>(2) A member's distributional interest in a limited liability company is personal property and, subject to the provisions of 35-8-707, may be transferred in whole or in part.</p> <p>(3) An operating agreement may provide that a member's distributional interest may be evidenced by a certificate of the interest issued by the limited liability company and, subject to the provisions of 35-8-707, may also provide for the transfer of any interest represented by the certificate.</p>
<p>SECTION 502. TRANSFER OF TRANSFERABLE INTEREST.</p> <p>(a) A transfer, in whole or in part, of a transferable interest:</p> <ul style="list-style-type: none"> (1) is permissible; (2) does not by itself cause a member's dissociation or a dissolution and winding up of the limited liability company's activities; and (3) subject to Section 504, does not entitle the transferee to: <ul style="list-style-type: none"> (A) participate in the management or conduct of the company's activities; or (B) except as otherwise provided in subsection (c), have access to records or other information concerning the company's activities. <p>(b) A transferee has the right to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.</p> <p>(c) In a dissolution and winding up of a limited liability company, a transferee is entitled to an account of the company's transactions only from the date of dissolution.</p> <p>(d) A transferable interest may be evidenced by a certificate of the interest issued by the limited liability company in a record, and, subject to this section, the</p>	<p>35-8-707 Transfer of distributional interest -- rights of transferee.</p> <p>(1) A transfer of a member's distributional interest does not entitle the transferee to become a member or to exercise any rights of a member. A transfer entitles the transferee to receive, to the extent transferred, only the distributions to which the transferor would be entitled.</p> <p>(2) A transferee of a distributional interest may become a member of a limited liability company if and to the extent that the transferor gives the transferee the right in accordance with authority described in writing in the operating agreement or if all other members consent.</p> <p>(3) A transferee who has become a member, to the extent transferred, has the rights and powers, and is subject to the restrictions and liabilities, of a member under the operating agreement of a limited liability company and the provisions of this chapter. A transferee who becomes a member also is liable for the transferor member's obligations to make contributions under 35-8-502 and for obligations under 35-8-605 to return unlawful distributions, but the transferee is not obligated for the transferor member's liabilities unknown to the transferee at the time that the transferee becomes a member.</p> <p>(4) Whether or not a transferee of a distributional interest becomes a member under subsection (2), the transferor is not released from liability to</p>

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<p>interest represented by the certificate may be transferred by a transfer of the certificate.</p> <p>(e) A limited liability company need not give effect to a transferee's rights under this section until the company has notice of the transfer.</p> <p>(f) A transfer of a transferable interest in violation of a restriction on transfer contained in the operating agreement is ineffective as to a person having notice of the restriction at the time of transfer.</p> <p>(g) Except as otherwise provided in Section 602(4)(B), when a member transfers a transferable interest, the transferor retains the rights of a member other than the interest in distributions transferred and retains all duties and obligations of a member.</p> <p>(h) When a member transfers a transferable interest to a person that becomes a member with respect to the transferred interest, the transferee is liable for the member's obligations under Sections 403 and 406(c) known to the transferee when the transferee becomes a member.</p>	<p>the limited liability company under the operating agreement or the provisions of this chapter.</p> <p>(5) A transferee who does not become a member is not entitled to participate in the management or conduct of the limited liability company's business, may not require access to information concerning the company's transactions, and may not inspect or copy any of the company's records.</p> <p>(6) A transferee who does not become a member is entitled to:</p> <p>(a) receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled;</p> <p>(b) receive, upon dissolution and winding up of the limited liability company's business:</p> <p>(i) in accordance with the transfer, the net amount otherwise distributable to the transferor; and</p> <p>(ii) a statement of account only from the date of the latest statement of account agreed to by all the members; and</p> <p>(c) seek under 35-8-902(2) a judicial determination that it is equitable to dissolve and wind up the company's business.</p> <p>(7) A limited liability company does not have to give effect to a transfer until it has notice of the transfer.</p>
<p>SECTION 503. CHARGING ORDER.</p> <p>(a) On application by a judgment creditor of a member or transferee, a court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment. A charging order constitutes a lien on a judgment debtor's transferable interest and requires the limited liability company to pay over to the person to which the charging order was issued any distribution that would otherwise be paid to the judgment debtor.</p> <p>(b) To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under subsection (a), the court may:</p> <p>(1) appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made; and</p> <p>(2) make all other orders</p>	<p>35-8-705 Rights of judgment creditor.</p> <p>(1) On application to a court of competent jurisdiction by any judgment creditor of a member, the court may charge the distributional interest of the member with payment of the unsatisfied amount of judgment, with interest. To the extent charged, the judgment creditor has only the rights of an assignee of the distributional interest. This chapter does not deprive a member of the benefit of any exemption laws applicable to a distributional interest.</p> <p>(2) The court may appoint a receiver of the share of the distributions due or to become due to a judgment debtor and make all other orders, directions, accounts, and inquiries that the judgment debtor may have made or that the circumstances require to give effect to the charging order.</p> <p>(3) A charging order constitutes a lien on the judgment debtor's distributional interest. The court may order a foreclosure of a lien on a</p>

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<p>necessary to give effect to the charging order.</p> <p>(c) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the court may foreclose the lien and order the sale of the transferable interest. The purchaser at the foreclosure sale only obtains the transferable interest, does not thereby become a member, and is subject to Section 502.</p> <p>(d) At any time before foreclosure under subsection (c), the member or transferee whose transferable interest is subject to a charging order under subsection (a) may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court that issued the charging order.</p> <p>(e) At any time before foreclosure under subsection (c), a limited liability company or one or more members whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.</p> <p>(f) This [act] does not deprive any member or transferee of the benefit of any exemption laws applicable to the member's or transferee's transferable interest.</p> <p>(g) This section provides the exclusive remedy by which a person seeking to enforce a judgment against a member or transferee may, in the capacity of judgment creditor, satisfy the judgment from the judgment debtor's transferable interest.</p>	<p>distributional interest subject to the charging order at any time. A purchaser of the distributional interest at a foreclosure sale has the rights of a transferee.</p> <p>(4) At any time before foreclosure, a distributional interest that is charged may be redeemed:</p> <p>(a) by the judgment debtor;</p> <p>(b) by one or more of the other members with property other than the company's; or</p> <p>(c) with the company's property if permitted by the operating agreement.</p> <p>(5) This section provides the exclusive remedy by which a judgment creditor of a member or a transferee may satisfy a judgment out of the judgment debtor's distributional interest in a limited liability company.</p>
<p>SECTION 504. POWER OF PERSONAL REPRESENTATIVE OF DECEASED MEMBER. If a member dies, the deceased member's personal representative or other legal representative may exercise the rights of a transferee provided in Section 502(c) and, for the purposes of settling the estate, the rights of a current member under Section 410.</p>	
<p>SECTION 601. MEMBER'S POWER TO DISSOCIATE; WRONGFUL DISSOCIATION.</p> <p>(a) A person has the power to dissociate as a member at any time, rightfully</p>	<p>35-8-804 Member's power to dissociate -- wrongful dissociation.</p> <p>(1) Unless otherwise provided in the operating agreement, a member has the power to</p>

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<p>or wrongfully, by withdrawing as a member by express will under Section 602(1).</p> <p>(b) A person's dissociation from a limited liability company is wrongful only if the dissociation:</p> <p>(1) is in breach of an express provision of the operating agreement; or</p> <p>(2) occurs before the termination of the company and:</p> <p>(A) the person withdraws as a member by express will;</p> <p>(B) the person is expelled as a member by judicial order under Section 602(5);</p> <p>(C) the person is dissociated under Section 602(7)(A) by becoming a debtor in bankruptcy; or</p> <p>(D) in the case of a person that is not a trust other than a business trust, an estate, or an individual, the person is expelled or otherwise dissociated as a member because it willfully dissolved or terminated.</p> <p>(c) A person that wrongfully dissociates as a member is liable to the limited liability company and, subject to Section 901, to the other members for damages caused by the dissociation. The liability is in addition to any other debt, obligation, or other liability of the member to the company or the other members.</p>	<p>dissociate from a limited liability company at any time, rightfully or wrongfully, pursuant to 35-8-803(1).</p> <p>(2) If the operating agreement has not eliminated a member's power to dissociate, the member's dissociation from a limited liability company is wrongful only if:</p> <p>(a) it is in breach of an express provision of the agreement; or</p> <p>(b) before the expiration of the specified term of a term company:</p> <p>(i) the member withdraws by express will;</p> <p>(ii) the member is expelled by judicial determination under 35-8-803(6);</p> <p>(iii) the member is dissociated by becoming a debtor in bankruptcy; or</p> <p>(iv) in the case of a member that is not an individual, trust, other than a business trust, or estate, the member is expelled or otherwise dissociated because it willfully dissolved or terminated its existence.</p> <p>(3) A member that wrongfully dissociates from a limited liability company is liable to the company and to the other members for damages caused by the dissociation. The liability is in addition to any other obligation of the member to the company or to the other members.</p> <p>(4) If a limited liability company does not dissolve and wind up its business as a result of a member's wrongful dissociation under subsection (2), damages sustained by the company for the wrongful dissociation must be offset against distributions otherwise due the member after the dissociation.</p>
<p>SECTION 602. EVENTS CAUSING DISSOCIATION. A person is dissociated as a member from a limited liability company when:</p> <p>(1) the company has notice of the person's express will to withdraw as a member, but, if the person specified a withdrawal date later than the date the company had notice, on that later date;</p> <p>(2) an event stated in the operating agreement as causing the person's dissociation occurs;</p> <p>(3) the person is expelled as a member pursuant to the operating agreement;</p>	<p>35-8-803 Events causing member's dissociation. A member is dissociated from a limited liability company upon the occurrence of any of the following events:</p> <p>(1) the company's having notice of the member's express will to withdraw upon the date of notice or on a later date if specified by the member;</p> <p>(2) an event agreed to in the operating agreement as causing the member's dissociation;</p> <p>(3) upon transfer of all of a member's distributional interest, other than a transfer for security purposes or pursuant to a court order charging the member's distributional interest that</p>

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<p>(4) the person is expelled as a member by the unanimous consent of the other members if:</p> <p>(A) it is unlawful to carry on the company's activities with the person as a member;</p> <p>(B) there has been a transfer of all of the person's transferable interest in the company, other than:</p> <p>(i) a transfer for security purposes; or</p> <p>(ii) a charging order in effect under Section 503 which has not been foreclosed;</p> <p>(C) the person is a corporation and, within 90 days after the company notifies the person that it will be expelled as a member because the person has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, the certificate of dissolution has not been revoked or its charter or right to conduct business has not been reinstated; or</p> <p>(D) the person is a limited liability company or partnership that has been dissolved and whose business is being wound up;</p> <p>(5) on application by the company, the person is expelled as a member by judicial order because the person:</p> <p>(A) has engaged, or is engaging, in wrongful conduct that has adversely and materially affected, or will adversely and materially affect, the company's activities;</p> <p>(B) has willfully or persistently committed, or is willfully and persistently committing, a material breach of the operating agreement or the person's duties or obligations under Section 409; or</p> <p>(C) has engaged in, or is engaging, in conduct relating to the company's activities which makes it not reasonably practicable to carry on the activities with the person as a member;</p> <p>(6) in the case of a person who is an individual:</p> <p>(A) the person dies; or</p>	<p>has not been foreclosed;</p> <p>(4) the member's expulsion pursuant to the operating agreement;</p> <p>(5) the member's expulsion by unanimous vote of the other members if:</p> <p>(a) it is unlawful to carry on the company's business with the member;</p> <p>(b) there has been a transfer of substantially all of the member's distributional interest, other than a transfer for security purposes or pursuant to a court order charging the member's distributional interest, which has not been foreclosed;</p> <p>(c) within 90 days after the company notifies a corporate member that it will be expelled because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, the member fails to obtain a revocation of the certificate of dissolution or a reinstatement of its charter or its right to conduct business; or</p> <p>(d) a partnership or a limited liability company that is a member has been dissolved, and its business is being wound up;</p> <p>(6) on application by the company or another member, the member's expulsion by judicial determination because the member:</p> <p>(a) engaged in wrongful conduct that adversely and materially affected the company's business;</p> <p>(b) willfully or persistently committed a material breach of the operating agreement or of a duty owed to the company or the other members under 35-8-310; or</p> <p>(c) engaged in conduct relating to the company's business that makes it not reasonably practicable to carry on the business with the member;</p> <p>(7) the member's:</p> <p>(a) becoming a debtor in bankruptcy;</p> <p>(b) executing an assignment for the benefit of creditors;</p> <p>(c) seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator of all or substantially all of the member's property; or</p> <p>(d) failing, within 90 days after the appointment, to have vacated or stayed the appointment of a trustee, receiver, or liquidator of the member or of all or substantially all of the member's property obtained without the member's</p>

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<p>(B) in a member-managed limited liability company:</p> <p>(i) a guardian or general conservator for the person is appointed; or</p> <p>(ii) there is a judicial order that the person has otherwise become incapable of performing the person's duties as a member under [this act] or the operating agreement;</p> <p>(7) in a member-managed limited liability company, the person:</p> <p>(A) becomes a debtor in bankruptcy;</p> <p>(B) executes an assignment for the benefit of creditors; or</p> <p>(C) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property;</p> <p>(8) in the case of a person that is a trust or is acting as a member by virtue of being a trustee of a trust, the trust's entire transferable interest in the company is distributed;</p> <p>(9) in the case of a person that is an estate or is acting as a member by virtue of being a personal representative of an estate, the estate's entire transferable interest in the company is distributed;</p> <p>(10) in the case of a member that is not an individual, partnership, limited liability company, corporation, trust, or estate, the termination of the member;</p> <p>(11) the company participates in a merger under [Article] 10, if:</p> <p>(A) the company is not the surviving entity; or,</p> <p>(B) otherwise as a result of the merger, the person ceases to be a member;</p> <p>(12) the company participates in a conversion under [Article] 10;</p> <p>(13) the company participates in a domestication under [Article] 10, if, as a result of the domestication, the person ceases to be a member; or</p> <p>(14) the company terminates.</p>	<p>consent or acquiescence or failing within 90 days after the expiration of stay to have the appointment vacated;</p> <p>(8) in the case of a member who is an individual:</p> <p>(a) the member's death;</p> <p>(b) the appointment of a guardian or general conservator for the member; or</p> <p>(c) a judicial determination that the member has otherwise become incapable of performing the member's duties under the operating agreement;</p> <p>(9) in the case of a member that is a trust or is acting as a member by virtue of being a trustee of a trust, distribution of the trust's entire rights to receive distributions from the company, except that this subsection does not apply to the substitution of a successor trustee;</p> <p>(10) in the case of a member that is an estate or is acting as a member by virtue of being a personal representative of an estate, distribution of the estate's entire rights to receive distributions from the company, but not merely the substitution of a successor personal representative; or</p> <p>(11) termination of the existence of a member if the member is not an individual, estate, or trust other than a business trust.</p>
<p>SECTION 603. EFFECT OF PERSON'S DISSOCIATION AS MEMBER.</p> <p>(a) When a person is dissociated as a</p>	<p>35-8-805 Effect of member's dissociation.</p> <p>(1) Upon a member's dissociation:</p> <p>(a) in an at-will company, the company shall</p>

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<p>member of a limited liability company:</p> <p>(1) the person's right to participate as a member in the management and conduct of the company's activities terminates;</p> <p>(2) if the company is member-managed, the person's fiduciary duties as a member end with regard to matters arising and events occurring after the person's dissociation; and</p> <p>(3) subject to Section 504 and [Article] 10, any transferable interest owned by the person immediately before dissociation in the person's capacity as a member is owned by the person solely as a transferee.</p> <p>(b) A person's dissociation as a member of a limited liability company does not of itself discharge the person from any debt, obligation, or other liability to the company or the other members which the person incurred while a member.</p>	<p>cause the dissociated member's distributional interest to be purchased as provided under 35-8-808 and 35-8-809; and</p> <p>(b) in a term company:</p> <p>(i) if the company dissolves and winds up its business on or before the expiration of its specified term, part 9 of this chapter applies to determine the dissociated member's rights to distributions; and</p> <p>(ii) if the company does not dissolve and wind up its business on or before the expiration of its specified term, the company shall ensure that the dissociated member's distributional interest is purchased under 35-8-808 and 35-8-809 on the date that was specified for the expiration of the term at the time of the member's dissociation.</p> <p>(2) Upon a member's dissociation from a limited liability company:</p> <p>(a) the member's right to participate in the management and conduct of the company's business terminates, except as otherwise provided in 35-8-903, and the member ceases to be a member and must be treated the same as a transferee of a member;</p> <p>(b) the member's duty of loyalty under 35-8-310(2)(c) terminates; and</p> <p>(c) the member's duty of loyalty under 35-8-310(2)(a) and (2)(b) and duty of care under 35-8-310(3) continue only with regard to matters arising and events occurring before the member's dissociation, unless the member participates in winding up the company's business pursuant to 35-8-903.</p>
	<p>35-8-808 Company purchase of distributional interest.</p> <p>(1) A limited liability company shall purchase a distributional interest of a:</p> <p>(a) member of an at-will company for its fair value determined as of the date of the member's dissociation if the member's dissociation does not result in a dissolution and winding up of the company's business under 35-8-901; or</p> <p>(b) member of a term company for its fair value determined as of the date of the expiration of the specified term that existed on the date of the member's dissociation if the expiration of the specified term does not result in a dissolution and winding up of the company's business under 35-8-903.</p>

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	<p>(2) A limited liability company shall deliver a purchase offer to the dissociated member whose distributional interest is entitled to be purchased not later than 30 days after the date determined under subsection (1). The purchase offer must be accompanied by:</p> <ul style="list-style-type: none"> (a) a statement of the company's assets and liabilities as of the date determined under subsection (1); (b) the latest available balance sheet and income statement, if any; and (c) an explanation of how the estimated amount of the payment was calculated. <p>(3) If the price and other terms of a purchase of a distributional interest are fixed or are to be determined by the operating agreement, the price and terms so fixed or determined govern the purchase unless the purchaser defaults. If a default occurs, the dissociated member is entitled to commence a proceeding to have the company dissolved under 35-8-902(1)(d).</p> <p>(4) If an agreement to purchase the distributional interest is not made within 120 days after the date determined under subsection (1), the dissociated member, within another 120 days, may commence a proceeding against the limited liability company to enforce the purchase. The company, at its expense, shall notify in writing all of the remaining members and any other person that the court directs of the commencement of the proceeding. The jurisdiction of the court in which a proceeding is commenced under this subsection is plenary and exclusive.</p> <p>(5) The court shall determine the fair value of the distributional interest in accordance with the standards set forth in 35-8-809, together with the terms for the purchase. Upon making these determinations, the court shall order the limited liability company to purchase or cause the purchase of the interest.</p> <p>(6) Damages for wrongful dissociation under 35-8-804(2) and all other amounts owing, whether or not currently due, from the dissociated member to a limited liability company, must be offset against the purchase price.</p>
	<p>35-8-809 Court action to determine fair value of distributional interest.</p> <p>(1) In an action brought to determine the fair value of a distributional interest in a limited</p>

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	<p>liability company, the court shall:</p> <p>(a) determine the fair value of the interest, considering among other relevant evidence the going concern value of the company, any agreement among some or all of the members fixing the price or specifying a formula for determining value of distributional interests for any other purpose, the recommendations of any appraiser appointed by the court, and any legal constraints on the company's ability to purchase the interest;</p> <p>(b) specify the terms of the purchase, including, if appropriate, terms for installment payments, subordination of the purchase obligation to the rights of the company's other creditors, security for a deferred purchase price, and a covenant not to compete or other restriction on a dissociated member; and</p> <p>(c) require the dissociated member to deliver an assignment of the interest to the purchaser upon receipt of the purchase price or the first installment of the purchase price.</p> <p>(2) After the dissociated member delivers the assignment, the dissociated member has no further claim against the company, its members, officers, or managers, if any, other than a claim to any unpaid balance of the purchase price or a claim under any agreement with the company or the remaining members that is not terminated by the court.</p> <p>(3) If the purchase is not completed in accordance with the court's specified terms, the company is to be dissolved upon application under 35-8-902(1)(d). If a limited liability company is so dissolved, the dissociated member has the same rights and priorities in the company's assets as if the sale of the distributional interest had not been ordered.</p> <p>(4) If the court finds that a party to the proceeding acted arbitrarily, vexatiously, or not in good faith, it may award one or more other parties reasonable expenses, including attorney fees and the expenses of appraisers or other experts, incurred in the proceeding. The finding may be based on the company's failure to make an offer to pay or to comply with 35-8-808(2).</p> <p>(5) Interest must be paid on the amount awarded from the date determined under 35-8-808(1) to the date of payment.</p>

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	<p>35-8-811 Dissociated member's power to bind limited liability company. For 2 years after a member dissociates without the dissociation resulting in a dissolution and winding up of a limited liability company's business, the company, including a surviving company under part 12 of this chapter, is bound by an act of the dissociated member that would have bound the company under 35-8-301 before dissociation only if at the time of entering into the transaction the other party:</p> <ul style="list-style-type: none"> (1) reasonably believed that the dissociated member was then a member; (2) did not have notice of the member's dissociation; and (3) is not considered to have had notice under 35-8-812.
	<p>35-8-812 Statement of dissociation. (1) A dissociated member or a limited liability company shall file in the office of the secretary of state a statement of dissociation, stating the name of the company and that the member is dissociated from the company. (2) For the purposes of 35-8-301 and 35-8-811, a person not a member is considered to have notice of the dissociation 90 days after the statement of dissociation is filed.</p>
<p>SECTION 701. EVENTS CAUSING DISSOLUTION. (a) A limited liability company is dissolved, and its activities must be wound up, upon the occurrence of any of the following:</p> <ul style="list-style-type: none"> (1) an event or circumstance that the operating agreement states causes dissolution; (2) the consent of all the members; (3) the passage of 90 consecutive days during which the company has no members; (4) on application by a member, the entry by [appropriate court] of an order dissolving the company on the grounds that: <ul style="list-style-type: none"> (A) the conduct of all or substantially all of the company's activities is unlawful; or (B) it is not reasonably practicable to carry on the company's activities in conformity with the certificate of 	<p>35-8-901 Dissolution. (1) A limited liability company is dissolved and its affairs must be wound up when one of the following occurs:</p> <ul style="list-style-type: none"> (a) at the time or upon the occurrence of events specified in writing in the articles of organization or operating agreement; (b) consent of the number or percentage of members specified in the operating agreement; (c) an event that makes it unlawful for all or substantially all of the business of the company to be continued, but any cure of illegality within 90 days after notice to the company of the event is effective retroactively to the date of the event for purposes of this section; (d) the expiration of the term specified in the articles of organization; or (e) entry of a decree of judicial dissolution under 35-8-902. <p>(2) Subject to subsection (3), a limited liability company continues after dissolution only for the purpose of winding up its business.</p> <p>(3) At any time after the dissolution of a limited</p>

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<p>organization and the operating agreement; or</p> <p>(5) on application by a member, the entry by [appropriate court] of an order dissolving the company on the grounds that the managers or those members in control of the company:</p> <p>(A) have acted, are acting, or will act in a manner that is illegal or fraudulent; or</p> <p>(B) have acted or are acting in a manner that is oppressive and was, is, or will be directly harmful to the applicant.</p> <p>(b) In a proceeding brought under subsection (a)(5), the court may order a remedy other than dissolution.</p>	<p>liability company and before the winding up of its business is completed, the members, including a dissociated member whose dissociation caused the dissolution, may unanimously waive the right to have the company's business wound up and the company terminated. In that case:</p> <p>(a) the limited liability company resumes carrying on its business as if dissolution had never occurred, and any liability incurred by the company or a member after the dissolution and before the waiver is determined as if the dissolution had never occurred; and</p> <p>(b) the rights of a third party accruing under the provisions of 35-8-904(1) or arising out of conduct by the third party in reliance on the dissolution before the third party knew or received a notification of the waiver are not adversely affected.</p> <p>35-8-902 Judicial dissolution.</p> <p>(1) On application by or for a member or a dissociated member, a district court may order dissolution of a limited liability company, or other appropriate relief, when:</p> <p>(a) the economic purpose of the company is likely to be unreasonably frustrated;</p> <p>(b) another member has engaged in conduct relating to the company's business that makes it not reasonably practicable to carry on the company's business with that member remaining as a member;</p> <p>(c) it is not otherwise reasonably practicable to carry on the company's business in conformity with the articles of organization and the operating agreement;</p> <p>(d) the company failed to purchase the petitioner's distributional interest as required by 35-8-805; or</p> <p>(e) the members or managers in control of the company have acted, are acting, or will act in a manner that is illegal, oppressive, fraudulent, or unfairly prejudicial to the petitioner.</p> <p>(2) On application by a transferee of a member's interest, a district court may determine that it is equitable to wind up the company's business:</p> <p>(a) after the expiration of the specified term, if the company was for a specified term at the time that the applicant became a transferee by member dissociation, transfer, or entry of a</p>

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	charging order that gave rise to the transfer; or (b) at any time, if the company was at will at the time that the applicant became a transferee by member dissociation, transfer, or entry of a charging order that gave rise to the transfer.
<p>SECTION 702. WINDING UP.</p> <p>(a) A dissolved limited liability company shall wind up its activities, and the company continues after dissolution only for the purpose of winding up.</p> <p>(b) In winding up its activities, a limited liability company:</p> <p>(1) shall discharge the company's debts, obligations, or other liabilities, settle and close the company's activities, and marshal and distribute the assets of the company; and</p> <p>(2) may:</p> <p>(A) deliver to the [Secretary of State] for filing a statement of dissolution stating the name of the company and that the company is dissolved;</p> <p>(B) preserve the company activities and property as a going concern for a reasonable time;</p> <p>(C) prosecute and defend actions and proceedings, whether civil, criminal, or administrative;</p> <p>(D) transfer the company's property;</p> <p>(E) settle disputes by mediation or arbitration;</p> <p>(F) deliver to the [Secretary of State] for filing a statement of termination stating the name of the company and that the company is terminated; and</p> <p>(G) perform other acts necessary or appropriate to the winding up.</p> <p>(c) If a dissolved limited liability company has no members, the legal representative of the last person to have been a member may wind up the activities of the company. If the person does so, the person has the powers of a sole manager under Section 407(c) and is deemed to be a manager for the purposes of Section 304(a)(2).</p> <p>(d) If the legal representative under subsection (c) declines or fails to wind up the</p>	<p>35-8-903 Winding up.</p> <p>(1) Except as otherwise provided in the articles of organization or the operating agreement, the business or affairs of the limited liability company may be wound up:</p> <p>(a) by the members or managers who have authority under 35-8-304 to manage the limited liability company prior to dissolution; or</p> <p>(b) if one or more of the members or managers have engaged in wrongful conduct or upon other cause shown, by the district court on application of any member or any member's legal representative or assignee.</p> <p>(2) The persons winding up the business or affairs of the limited liability company may, in the name of and for and on behalf of the limited liability company:</p> <p>(a) prosecute and defend suits;</p> <p>(b) settle and close the business of the limited liability company;</p> <p>(c) dispose of and transfer the property of the limited liability company;</p> <p>(d) discharge the liabilities of the limited liability company; and</p> <p>(e) distribute to the members any remaining assets of the limited liability company.</p> <p>35-8-906 Articles of termination.</p> <p>(1) At any time after dissolution and winding up, a limited liability company may terminate its existence by filing with the secretary of state articles of termination stating:</p> <p>(a) the name of the limited liability company;</p> <p>(b) the reason for filing the articles of termination;</p> <p>(c) the effective date of the articles of termination, which must be a date certain, if they are not to be effective upon the filing;</p> <p>(d) the name of the agent or agents authorized to receive service of process after dissolution or termination of the limited liability company;</p> <p>(e) the name of the person or persons authorized to wind up the business and authorized to execute documents on behalf of the limited liability company;</p>

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<p>company's activities, a person may be appointed to do so by the consent of transferees owning a majority of the rights to receive distributions as transferees at the time the consent is to be effective. A person appointed under this subsection:</p> <p style="padding-left: 40px;">(1) has the powers of a sole manager under Section 407(c) and is deemed to be a manager for the purposes of Section 304(a)(2); and</p> <p style="padding-left: 40px;">(2) shall promptly deliver to the [Secretary of State] for filing an amendment to the company's certificate of organization to:</p> <p style="padding-left: 80px;">(A) state that the company has no members;</p> <p style="padding-left: 80px;">(B) state that the person has been appointed pursuant to this subsection to wind up the company; and</p> <p style="padding-left: 80px;">(C) provide the street and mailing addresses of the person.</p> <p>(e) The [appropriate court] may order judicial supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the company's activities:</p> <p style="padding-left: 40px;">(1) on application of a member, if the applicant establishes good cause;</p> <p style="padding-left: 40px;">(2) on the application of a transferee, if:</p> <p style="padding-left: 80px;">(A) the company does not have any members;</p> <p style="padding-left: 80px;">(B) the legal representative of the last person to have been a member declines or fails to wind up the company's activities; and</p> <p style="padding-left: 80px;">(C) within a reasonable time following the dissolution a person has not been appointed pursuant to subsection (c); or</p> <p style="padding-left: 40px;">(3) in connection with a proceeding under Section 701(a)(4) or (5).</p>	<p>(f) the date of the dissolution; and</p> <p>(g) that the company's business has been wound up and the legal existence of the company has been terminated.</p> <p>(2) The existence of a limited liability company is terminated upon the filing of the articles of termination or upon a later effective date, if specified in the articles of termination.</p>
	<p>35-8-904 Agency power and liability of members or managers after dissolution.</p> <p>(1) Except as provided in subsections (3) through (5), after an event causing dissolution of the limited liability company, a member may bind the limited liability company:</p> <p style="padding-left: 20px;">(a) by an act appropriate for winding up the</p>

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	<p>limited liability company's affairs or completing transactions unfinished at dissolution; and</p> <p>(b) by any transaction that would have bound the limited liability company, if it had not been dissolved, if the other party to the transaction does not have notice of the dissolution.</p> <p>(2) The filing of the articles of termination is presumed to constitute notice of dissolution for purposes of subsection (1)(b).</p> <p>(3) An act of a member that would not otherwise be binding on the limited liability company under subsection (1) is binding if it is authorized by the limited liability company.</p> <p>(4) An act of a member that would be binding under subsection (1) or would be otherwise authorized and that is in contravention of a restriction on authority may not bind the limited liability company to persons having knowledge of the restriction.</p> <p>(5) If the articles of organization vest management of the limited liability company in managers, a manager may exercise the authority of a member under subsection (1) and a member may not exercise the authority if the member is acting solely in the capacity of a member.</p> <p>(6) A member or manager who, with knowledge of the dissolution, subjects a limited liability company to liability by an act that is not appropriate for the winding up of the company's business is liable to the company for any damage caused by the act.</p>
<p>SECTION 703. KNOWN CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANY.</p> <p>(a) Except as otherwise provided in subsection (d), a dissolved limited liability company may give notice of a known claim under subsection (b), which has the effect as provided in subsection (c).</p> <p>(b) A dissolved limited liability company may in a record notify its known claimants of the dissolution. The notice must:</p> <ol style="list-style-type: none"> (1) specify the information required to be included in a claim; (2) provide a mailing address to which the claim is to be sent; (3) state the deadline for receipt of the claim, which may not be less than 120 days after the date the notice is received by the claimant; and 	<p>35-8-908 Known claims against dissolved or terminated limited liability companies.</p> <p>(1) A dissolved or terminated limited liability company may dispose of the known claims against it by following the procedure described in this section.</p> <p>(2) The dissolved or terminated limited liability company shall notify its known claimants in writing of the dissolution or termination at any time after the effective date of the dissolution or termination. The written notice must:</p> <ol style="list-style-type: none"> (a) describe information that must be included in a claim; (b) provide a mailing address where a claim may be sent; (c) state the deadline, which may not be less than 120 days from the later of the effective date of the written notice or the filing of the

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<p>(4) state that the claim will be barred if not received by the deadline.</p> <p>(c) A claim against a dissolved limited liability company is barred if the requirements of subsection (b) are met and:</p> <p>(1) the claim is not received by the specified deadline; or</p> <p>(2) if the claim is timely received but rejected by the company:</p> <p>(A) the company causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the company to enforce the claim within 90 days after the claimant receives the notice; and</p> <p>(B) the claimant does not commence the required action within the 90 days.</p> <p>(d) This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that on that date is contingent.</p>	<p>articles of termination pursuant to 35-8-906, by which the dissolved or terminated limited liability company must receive the claim; and</p> <p>(d) state that the claim will be barred if not received by the deadline.</p> <p>(3) A claim against the dissolved or terminated limited liability company is barred:</p> <p>(a) if a claimant who was given written notice under subsection (2) does not deliver the claim to the dissolved or terminated limited liability company by the deadline; or</p> <p>(b) if a claimant whose claim was rejected by the dissolved or terminated limited liability company does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.</p> <p>(4) For purposes of this section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of the dissolution or termination.</p>
<p>SECTION 704. OTHER CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANY.</p> <p>(a) A dissolved limited liability company may publish notice of its dissolution and request persons having claims against the company to present them in accordance with the notice.</p> <p>(b) The notice authorized by subsection (a) must:</p> <p>(1) be published at least once in a newspaper of general circulation in the [county] in this state in which the dissolved limited liability company's principal office is located or, if it has none in this state, in the [county] in which the company's designated office is or was last located;</p> <p>(2) describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent; and</p> <p>(3) state that a claim against the company is barred unless an action to enforce the claim is commenced within five years after publication of the notice.</p> <p>(c) If a dissolved limited liability company publishes a notice in accordance with subsection (b), unless the claimant</p>	<p>35-8-909 Unknown claims against dissolved or terminated limited liability companies.</p> <p>(1) Subject to 35-8-908 and subsections (2) through (5) of this section, the dissolution or termination of a limited liability company, including dissolution by the expiration of its term, does not take away or impair any remedy available to or against the limited liability company or its members or managers for any claim or right, whether or not the claim or right existed or accrued prior to dissolution or termination. A proceeding by or against the limited liability company may be prosecuted or defended by the limited liability company in its name. The members and managers have power to take action as appropriate to protect the remedy, right, or claim.</p> <p>(2) A dissolved or terminated limited liability company may publish notice of its dissolution or termination and request that persons having claims against it present the claims in accordance with the notice.</p> <p>(3) The notice must:</p> <p>(a) be published at least once in a newspaper of general circulation in the county in which the dissolved or terminated limited liability company's principal office is located or, if there</p>

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<p>commences an action to enforce the claim against the company within five years after the publication date of the notice, the claim of each of the following claimants is barred:</p> <p>(1) a claimant that did not receive notice in a record under Section 703;</p> <p>(2) a claimant whose claim was timely sent to the company but not acted on; and</p> <p>(3) a claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.</p> <p>(d) A claim not barred under this section may be enforced:</p> <p>(1) against a dissolved limited liability company, to the extent of its undistributed assets; and</p> <p>(2) if assets of the company have been distributed after dissolution, against a member or transferee to the extent of that person's proportionate share of the claim or of the assets distributed to the member or transferee after dissolution, whichever is less, but a person's total liability for all claims under this paragraph does not exceed the total amount of assets distributed to the person after dissolution.</p>	<p>is none in this state, then in the county in which its designated office is or was last located;</p> <p>(b) describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent; and</p> <p>(c) state that a claim against the limited liability company is barred unless a proceeding to enforce the claim is commenced within 5 years after publication of the notice.</p> <p>(4) If a dissolved or terminated limited liability company publishes a notice in accordance with subsection (3), the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved or terminated company within 5 years after the publication date of the notice:</p> <p>(a) a claimant who did not receive written notice under 35-8-908;</p> <p>(b) a claimant whose claim was timely sent to the dissolved or terminated company but not acted on; and</p> <p>(c) a claimant whose claim is contingent on or based on an event occurring after the effective date of dissolution or termination.</p> <p>(5) A claim not barred under this section may be enforced:</p> <p>(a) against the dissolved or terminated limited liability company, to the extent of its undistributed assets; or</p> <p>(b) if the assets have been distributed in liquidation, against a member of the dissolved or terminated company to the extent of the member's proportionate share of the claim or the company's assets distributed to the member in liquidation, whichever is less, but a member's total liability for all claims under this section may not exceed the total amount of assets distributed to the member.</p>
<p>SECTION 705. ADMINISTRATIVE DISSOLUTION.</p> <p>(a) The [Secretary of State] may dissolve a limited liability company administratively if the company does not:</p> <p>(1) pay, within 60 days after the due date, any fee, tax, or penalty due to the [Secretary of State] under this [act] or law other than this [act]; or</p> <p>(2) deliver, within 60 days after the due date, its annual report to the [Secretary of State].</p>	<p>35-8-209. (Effective October 1, 2008)</p> <p>Administrative dissolution -- rules.</p> <p>(1) A domestic limited liability company may be dissolved involuntarily by order of the secretary of state if the limited liability company:</p> <p>(a) (i) has failed for 60 days after a change of its registered agent to file in the office of the secretary of state a statement of the change; or</p> <p>(ii) has failed for 60 days to appoint and maintain a registered agent in this state;</p> <p>(b) has failed for 140 days to file its annual report</p>

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<p>(b) If the [Secretary of State] determines that a ground exists for administratively dissolving a limited liability company, the [Secretary of State] shall file a record of the determination and serve the company with a copy of the filed record.</p> <p>(c) If within 60 days after service of the copy pursuant to subsection (b) a limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the [Secretary of State] that each ground determined by the [Secretary of State] does not exist, the [Secretary of State] shall dissolve the company administratively by preparing, signing, and filing a declaration of dissolution that states the grounds for dissolution. The [Secretary of State] shall serve the company with a copy of the filed declaration.</p> <p>(d) A limited liability company that has been administratively dissolved continues in existence but, subject to Section 706, may carry on only activities necessary to wind up its activities and liquidate its assets under Sections 702 and 708 and to notify claimants under Sections 703 and 704.</p> <p>(e) The administrative dissolution of a limited liability company does not terminate the authority of its agent for service of process.</p>	<p>within the time required by law;</p> <p>(c) has failed to remit any fees required by law;</p> <p>(d) procured its certificate of existence through fraud; or</p> <p>(e) has exceeded or abused the authority conferred upon it by law and the excesses or abuses have continued after a written notice of the alleged excesses or abuses has been received from the secretary of state by the registered agent of the limited liability company.</p> <p>(2) If dissolution is sought under subsection (1)(d) or (1)(e), the secretary of state may dissolve a limited liability company when an alleged violation of subsection (1)(d) or (1)(e) is established by an order of a district court. In addition to any other person authorized by law, the secretary of state or the attorney general may maintain an action in district court to implement the provisions of this section.</p>
<p>SECTION 706. REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION.</p> <p>(a) A limited liability company that has been administratively dissolved may apply to the [Secretary of State] for reinstatement within two years after the effective date of dissolution. The application must be delivered to the [Secretary of State] for filing and state:</p> <p>(1) the name of the company and the effective date of its dissolution;</p> <p>(2) that the grounds for dissolution did not exist or have been eliminated; and</p> <p>(3) that the company's name satisfies the requirements of Section 108.</p> <p>(b) If the [Secretary of State] determines that an application under subsection (a) contains the required information and that the information is</p>	<p>35-8-210 Reinstatement of dissolved limited liability company.</p> <p>(1) The secretary of state may:</p> <p>(a) reinstate a limited liability company that has been dissolved under the provisions of 35-8-209;</p> <p>(b) restore to a reinstated limited liability company its right to carry on business in this state and to exercise all of its privileges and immunities.</p> <p>(2) A limited liability company applying for reinstatement shall submit to the secretary of state the application, executed by a person who was a member at the time of dissolution, setting forth:</p> <p>(a) the name of the limited liability company;</p> <p>(b) a statement that the assets of the limited liability company have not been liquidated;</p> <p>(c) a statement that a majority of its members have authorized the application for reinstatement; and</p>

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<p>correct, the [Secretary of State] shall prepare a declaration of reinstatement that states this determination, sign and file the original of the declaration of reinstatement, and serve the limited liability company with a copy.</p> <p>(c) When a reinstatement becomes effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the limited liability company may resume its activities as if the dissolution had not occurred.</p>	<p>(d) if its name has been legally acquired by another entity prior to its application for reinstatement, the name under which the limited liability company desires to be reinstated.</p> <p>(3) The limited liability company shall submit with its application for reinstatement:</p> <p>(a) a certificate from the department of revenue stating that all taxes imposed pursuant to Title 15 have been paid; and</p> <p>(b) all annual reports not yet filed with the secretary of state.</p> <p>(4) When all requirements are met and the secretary of state reinstates the limited liability company to its former rights, the secretary of state shall:</p> <p>(a) conform and file in the office of the secretary of state reports, statements, and other instruments submitted for reinstatement;</p> <p>(b) immediately issue and deliver to the reinstated limited liability company a certificate of reinstatement authorizing it to transact business; and</p> <p>(c) upon demand, issue to the limited liability company one or more certified copies of the certificate of reinstatement.</p> <p>(5) The secretary of state may not order a reinstatement if 5 years have elapsed since the dissolution.</p> <p>(6) A restoration of limited liability company rights pursuant to this section relates back to the date the limited liability company was involuntarily dissolved, and the limited liability company is considered to have been an existing legal entity from the date of its original organization.</p> <p>35-8-912 Reinstatement following administrative dissolution.</p> <p>(1) A limited liability company administratively dissolved may apply to the secretary of state for reinstatement within 5 years after the effective date of dissolution. The applicant shall file an official application. The application must:</p> <p>(a) recite the name of the company and the effective date of its administrative dissolution;</p> <p>(b) state that the ground for dissolution either did not exist or has been eliminated;</p> <p>(c) state that the company's name satisfies the requirements of 35-8-103;</p> <p>(d) contain a certificate from the department of</p>

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	<p>revenue reciting that all taxes owed by the company have been paid; and</p> <p>(e) include all annual reports not yet filed with the secretary of state.</p> <p>(2) If the secretary of state determines that the application contains the information required by subsection (1) and that the information is correct, the secretary of state shall cancel the certificate of dissolution, prepare a certificate of reinstatement that recites this determination and the effective date of reinstatement, file the original of the certificate, and serve the company with a copy of the certificate.</p> <p>(3) When reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution, and the company may resume its business as if the administrative dissolution had not occurred.</p>
<p>SECTION 707. APPEAL FROM REJECTION OF REINSTATEMENT.</p> <p>(a) If the [Secretary of State] rejects a limited liability company's application for reinstatement following administrative dissolution, the [Secretary of State] shall prepare, sign, and file a notice that explains the reason for rejection and serve the company with a copy of the notice.</p> <p>(b) Within 30 days after service of a notice of rejection of reinstatement under subsection (a), a limited liability company may appeal from the rejection by petitioning the [appropriate court] to set aside the dissolution. The petition must be served on the [Secretary of State] and contain a copy of the [Secretary of State's] declaration of dissolution, the company's application for reinstatement, and the [Secretary of State's] notice of rejection.</p> <p>(c) The court may order the [Secretary of State] to reinstate a dissolved limited liability company or take other action the court considers appropriate.</p>	<p>35-8-913 Appeal from denial of reinstatement.</p> <p>(1) If the secretary of state denies a limited liability company's application for reinstatement following administrative dissolution, the secretary of state shall serve the company with a record that explains the reason or reasons for the denial.</p> <p>(2) The company may appeal the denial of reinstatement to a district court within 30 days after service of the notice of denial. The company shall appeal by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the company's application for reinstatement, and the secretary of state's notice of denial.</p> <p>(3) The court may summarily order the secretary of state to reinstate the dissolved company or may take other action that the court considers appropriate.</p> <p>(4) The court's final decision may be appealed as in other civil proceedings.</p>
<p>SECTION 708. DISTRIBUTION OF ASSETS IN WINDING UP LIMITED LIABILITY COMPANY'S ACTIVITIES.</p> <p>(a) In winding up its activities, a limited liability company must apply its assets to discharge its obligations to creditors, including members that are creditors.</p> <p>(b) After a limited liability company</p>	<p>35-8-905 Distribution of assets.</p> <p>Upon the winding up of a limited liability company, the assets must be distributed as follows:</p> <p>(1) to creditors, including members and managers who are creditors, to the extent otherwise permitted by law, in satisfaction of liabilities of the limited liability company, whether</p>

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<p>complies with subsection (a), any surplus must be distributed in the following order, subject to any charging order in effect under Section 503:</p> <p>(1) to each person owning a transferable interest that reflects contributions made by a member and not previously returned, an amount equal to the value of the unreturned contributions; and</p> <p>(2) in equal shares among members and dissociated members, except to the extent necessary to comply with any transfer effective under Section 502.</p> <p>(c) If a limited liability company does not have sufficient surplus to comply with subsection (b)(1), any surplus must be distributed among the owners of transferable interests in proportion to the value of their respective unreturned contributions.</p> <p>(d) All distributions made under subsections (b) and (c) must be paid in money.</p>	<p>by payment or the making of reasonable provision for payment, other than liabilities to members for distributions under 35-8-605;</p> <p>(2) unless otherwise provided in the articles of organization or an operating agreement, to members and former members in satisfaction of liabilities for distributions under 35-8-605; and</p> <p>(3) unless otherwise provided in writing in the articles of organization or a written operating agreement, to members first for the return of their contributions and second respecting their limited liability company interests, in the proportions in which the members share in distributions.</p>
<p>SECTION 801. GOVERNING LAW.</p> <p>(a) The law of the state or other jurisdiction under which a foreign limited liability company is formed governs:</p> <p>(1) the internal affairs of the company; and</p> <p>(2) the liability of a member as member and a manager as manager for the debts, obligations, or other liabilities of the company.</p> <p>(b) A foreign limited liability company may not be denied a certificate of authority by reason of any difference between the law of the jurisdiction under which the company is formed and the law of this state.</p> <p>(c) A certificate of authority does not authorize a foreign limited liability company to engage in any business or exercise any power that a limited liability company may not engage in or exercise in this state.</p>	
	<p>35-8-1001 Authority to transact business required.</p> <p>(1) A foreign limited liability company may not transact business in this state until it obtains a certificate of authority from the secretary of state.</p> <p>(2) The following activities, among others, do not constitute transacting business within the</p>

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	<p>meaning of subsection (1):</p> <ul style="list-style-type: none"> (a) maintaining, defending, or settling any proceeding; (b) holding meetings of the members or managers or carrying on other activities concerning internal affairs of the limited liability company; (c) maintaining bank accounts; (d) maintaining offices or agencies for the transfer, exchange, and registration of the limited liability company's own securities or maintaining trustees or depositaries with respect to those securities; (e) selling through independent contractors; (f) soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts; (g) creating or acquiring indebtedness, mortgages, and security interests in real or personal property; (h) securing or collecting debts or enforcing mortgages and security interests in property securing the debts; (i) owning real or personal property that is acquired incident to activities described in subsection (2)(h) if the property is disposed of within 5 years after the date of acquisition, does not produce income, or is not used in the performance of a function of the limited liability company; (j) conducting an isolated transaction that is completed within 30 days and that is not a transaction in the course of repeated transactions of a similar nature; or (k) transacting business in interstate commerce. <p>(3) The list of activities in subsection (2) is not exhaustive.</p> <p>(4) Except as provided in subsection (2), a foreign limited liability company is transacting business within the meaning of subsection (1) if it enters into a contract, including a contract entered into pursuant to Title 18, with the state of Montana, an agency of the state, or a political subdivision of the state and must apply for and receive a certificate of authority to transact business before entering into the contract. The secretary of state shall provide written notice to the contracting parties regarding the requirement that a foreign limited liability</p>

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	<p>company obtain a certificate of authority. The foreign limited liability company must be allowed 30 days from the date of the notice to obtain the certificate of authority, and an existing contract may not be voided prior to the expiration of the 30 days. This subsection does not apply to goods or services prepared out of state for delivery or use in this state.</p>
<p>SECTION 802. APPLICATION FOR CERTIFICATE OF AUTHORITY.</p> <p>(a) A foreign limited liability company may apply for a certificate of authority to transact business in this state by delivering an application to the [Secretary of State] for filing. The application must state:</p> <ul style="list-style-type: none"> (1) the name of the company and, if the name does not comply with Section 108, an alternate name adopted pursuant to Section 805(a); (2) the name of the state or other jurisdiction under whose law the company is formed; (3) the street and mailing addresses of the company's principal office and, if the law of the jurisdiction under which the company is formed require the company to maintain an office in that jurisdiction, the street and mailing addresses of the required office; and (4) the name and street and mailing addresses of the company's initial agent for service of process in this state. <p>(b) A foreign limited liability company shall deliver with a completed application under subsection (a) a certificate of existence or a record of similar import signed by the [Secretary of State] or other official having custody of the company's publicly filed records in the state or other jurisdiction under whose law the company is formed.</p>	<p>35-8-108 Registered name of foreign limited liability company -- registration renewal.</p> <p>(1) A foreign limited liability company may register its name or its name with any addition required by 35-8-103 if the name is distinguishable from names that are not available under 35-8-103(2).</p> <p>(2) A foreign limited liability company shall register its name or its name with any addition required by 35-8-103 by delivering to the secretary of state for filing an application:</p> <ul style="list-style-type: none"> (a) setting forth: <ul style="list-style-type: none"> (i) its name or its name with any addition required by 35-8-103; (ii) the state or country where it was organized; (iii) the date of its organization; and (iv) a brief description of the nature of its business; (b) accompanied by a certificate of existence or a similar document from the state or country where it was organized. <p>(3) The name, if accepted by the secretary of state, is registered for the applicant's exclusive use as of the date the application is filed with the secretary of state.</p> <p>(4) A foreign limited liability company may annually renew its registration for successive years by delivering to the secretary of state a renewal application that complies with the requirements of subsection (2). The renewal application must be received by the secretary of state for filing between October 1 and December 31 of the year preceding the year for which a renewal is sought. The renewal is effective until December 31 of the following year.</p> <p>(5) A foreign limited liability company has the right to use its registered name until the registration of the name is canceled as a result of it consenting to the use of the registered name by another business entity authorized to do business in this state or until the foreign limited</p>

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	<p>liability company applies for and receives a certificate of authority to transact business in this state or it organizes as a domestic limited liability company in this state. A foreign limited liability company receiving a certificate of authority to transact business in this state or that organizes as a domestic limited liability company may use the canceled registered name as its business name.</p> <p>35-8-1003. (Effective October 1, 2008) Application for certificate of authority. (1) A foreign limited liability company may apply for a certificate of authority to transact business in this state by delivering an application to the secretary of state for filing. The application must set forth:</p> <ul style="list-style-type: none"> (a) the name of the foreign limited liability company or, if its name is unavailable for use in this state, a name that satisfies the requirements of 35-8-1009; (b) the name of the jurisdiction under whose law it is organized; (c) its date of organization and period of duration; (d) the street address of its principal office, wherever located; (e) the information required by 35-7-105(1); and (f) the names and usual business addresses of its current managers, if different from its members. <p>(2) A foreign limited liability company shall deliver with the completed application a certificate of existence or a similar document authenticated by the secretary of state or other official having custody of corporate records in the jurisdiction under whose law the foreign limited liability company is organized.</p>
<p>SECTION 803. ACTIVITIES NOT CONSTITUTING TRANSACTING BUSINESS.</p> <p>(a) Activities of a foreign limited liability company which do not constitute transacting business in this state within the meaning of this [article] include:</p> <ul style="list-style-type: none"> (1) maintaining, defending, or settling an action or proceeding; (2) carrying on any activity concerning its internal affairs, including holding meetings of its members or managers; (3) maintaining accounts in 	

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<p>financial institutions;</p> <p>(4) maintaining offices or agencies for the transfer, exchange, and registration of the company's own securities or maintaining trustees or depositories with respect to those securities;</p> <p>(5) selling through independent contractors;</p> <p>(6) soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;</p> <p>(7) creating or acquiring indebtedness, mortgages, or security interests in real or personal property;</p> <p>(8) securing or collecting debts or enforcing mortgages or other security interests in property securing the debts and holding, protecting, or maintaining property so acquired;</p> <p>(9) conducting an isolated transaction that is completed within 30 days and is not in the course of similar transactions; and</p> <p>(10) transacting business in interstate commerce.</p> <p>(b) For purposes of this [article], the ownership in this state of income-producing real property or tangible personal property, other than property excluded under subsection (a), constitutes transacting business in this state.</p> <p>(c) This section does not apply in determining the contacts or activities that may subject a foreign limited liability company to service of process, taxation, or regulation under law of this state other than this [act].</p>	
<p>SECTION 804. FILING OF CERTIFICATE OF AUTHORITY. Unless the [Secretary of State] determines that an application for a certificate of authority does not comply with the filing requirements of this [act], the [Secretary of State], upon payment of all filing fees, shall file the application of a foreign limited liability company, prepare, sign, and file a certificate of authority to transact business in this state, and send a copy of the filed certificate, together with a</p>	

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receipt for the fees, to the company or its representative.	
<p>SECTION 805. NONCOMPLYING NAME OF FOREIGN LIMITED LIABILITY COMPANY.</p> <p>(a) A foreign limited liability company whose name does not comply with Section 108 may not obtain a certificate of authority until it adopts, for the purpose of transacting business in this state, an alternate name that complies with Section 108. A foreign limited liability company that adopts an alternate name under this subsection and obtains a certificate of authority with the alternate name need not comply with [fictitious or assumed name statute]. After obtaining a certificate of authority with an alternate name, a foreign limited liability company shall transact business in this state under the alternate name unless the company is authorized under [fictitious or assumed name statute] to transact business in this state under another name.</p> <p>(b) If a foreign limited liability company authorized to transact business in this state changes its name to one that does not comply with Section 108, it may not thereafter transact business in this state until it complies with subsection (a) and obtains an amended certificate of authority.</p>	<p>35-8-1009 Name.</p> <p>A certificate of authority may not be issued to a foreign limited liability company unless the name of the company satisfies the requirements of 35-8-103. If the name of a foreign limited liability company does not satisfy the requirements of 35-8-103, to obtain or maintain a certificate of authority:</p> <p>(1) the foreign limited liability company may add the words "limited company", the abbreviation "l.l.c.", or the abbreviation "l.c." to its name for use in this state; or</p> <p>(2) if its real name is unavailable, the foreign limited liability company may use an assumed business name that is available and that satisfies the requirements of 35-8-208 if it files the assumed business name with the secretary of state.</p>
	<p>35-8-1007 Amended certificate of authority.</p> <p>(1) A foreign limited liability company authorized to transact business in this state shall obtain an amended certificate of authority from the secretary of state if it changes:</p> <p>(a) its name;</p> <p>(b) the period of its duration; or</p> <p>(c) the state or country of its organization.</p> <p>(2) The requirements of 35-8-1003 for obtaining an original certificate of authority apply to obtaining an amended certificate under this section.</p>
	<p>35-8-1008 Effect of certificate of authority.</p> <p>(1) A certificate of authority issued by the secretary of state authorizes a foreign limited liability company to transact business in this state subject to the right of the state to revoke the certificate as provided in this part.</p> <p>(2) A foreign limited liability company with a valid certificate of authority has the same rights and privileges as a domestic company of similar</p>

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	<p>character and, except as otherwise provided by this part, is subject to the same duties, restrictions, penalties, and liabilities imposed on a domestic limited liability company of similar character.</p> <p>(3) This part does not authorize the state to regulate the organization or internal affairs of a foreign limited liability company authorized to transact business in the state.</p>
<p>SECTION 806. REVOCATION OF CERTIFICATE OF AUTHORITY.</p> <p>(a) A certificate of authority of a foreign limited liability company to transact business in this state may be revoked by the [Secretary of State] in the manner provided in subsections (b) and (c) if the company does not:</p> <ul style="list-style-type: none"> (1) pay, within 60 days after the due date, any fee, tax, or penalty due to the [Secretary of State] under this [act] or law other than this [act]; (2) deliver, within 60 days after the due date, its annual report required under Section 209; (3) appoint and maintain an agent for service of process as required by Section 113(b); or (4) deliver for filing a statement of a change under Section 114 within 30 days after a change has occurred in the name or address of the agent. <p>(b) To revoke a certificate of authority of a foreign limited liability company, the [Secretary of State] must prepare, sign, and file a notice of revocation and send a copy to the company's agent for service of process in this state, or if the company does not appoint and maintain a proper agent in this state, to the company's designated office. The notice must state:</p> <ul style="list-style-type: none"> (1) the revocation's effective date, which must be at least 60 days after the date the [Secretary of State] sends the copy; and (2) the grounds for revocation under subsection (a). <p>(c) The authority of a foreign limited liability company to transact business in this state ceases on the effective date of the notice of revocation unless before that date</p>	<p>35-8-1011. (Effective October 1, 2008) Grounds for revocation.</p> <p>The secretary of state may commence a proceeding under 35-8-1012 to revoke the certificate of authority of a foreign limited liability company authorized to transact business in this state if:</p> <ul style="list-style-type: none"> (1) the foreign limited liability company does not deliver its annual report to the secretary of state within 140 days after it is due; (2) the foreign limited liability company is without a registered agent or registered office in this state for 60 days or more; (3) the foreign limited liability company does not inform the secretary of state that its registered agent has changed or resigned within 60 days of the change or resignation; or (4) the secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of company records in the state or country under whose law the foreign limited liability company is organized, stating that it has been dissolved or disappeared as the result of a merger. <p>35-8-1012 Procedure for and effect of revocation.</p> <p>(1) If the secretary of state determines that one or more grounds exist under 35-8-1011 for revocation of a certificate of authority, the secretary of state shall serve the foreign limited liability company with written notice of the secretary of state's determination.</p> <p>(2) If the foreign limited liability company does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within 60 days after service of the notice is mailed, the secretary of state may revoke the foreign limited liability company's certificate of</p>

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<p>the company cures each ground for revocation stated in the notice filed under subsection (b). If the company cures each ground, the [Secretary of State] shall file a record so stating.</p>	<p>authority by signing a certificate of revocation that states the ground or grounds for revocation and the effective date of the revocation. The secretary of state shall file the original of the certificate and mail a copy to the foreign limited liability company.</p> <p>(3) The authority of a foreign limited liability company to transact business in this state ceases on the date shown on the certificate revoking its certificate of authority.</p> <p>(4) The secretary of state's revocation of a foreign limited liability company's certificate of authority appoints the secretary of state as the foreign limited liability company's agent for service of process in any proceeding based on a cause of action that arose during the time the foreign limited liability company was authorized to transact business in this state. Service of process on the secretary of state under this subsection is service on the foreign limited liability company. Upon receipt of process, the secretary of state shall mail a copy of the process to the secretary of the foreign limited liability company at its principal office shown in its most recent annual report or in any subsequent communication received from the foreign limited liability company, stating the current mailing address of its principal office or, if no report or communication is on file, in its application for a certificate of authority.</p> <p>(5) Revocation of a foreign limited liability company's certificate of authority does not terminate the authority of the registered agent of the foreign limited liability company.</p> <p>35-8-1013 Appeal from revocation.</p> <p>(1) A foreign limited liability company may appeal the secretary of state's revocation of its certificate of authority to the district court within 30 days after service of the certificate of revocation is mailed. The foreign limited liability company may appeal by petitioning the court to set aside the revocation and by attaching to the petition copies of its certificate of authority and the secretary of state's certificate of revocation.</p> <p>(2) The court may summarily order the secretary of state to reinstate the certificate of authority or may take any other action the court considers appropriate.</p>

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	(3) The court's final decision may be appealed as in other civil proceedings.
<p>SECTION 807. CANCELLATION OF CERTIFICATE OF AUTHORITY. To cancel its certificate of authority to transact business in this state, a foreign limited liability company must deliver to the [Secretary of State] for filing a notice of cancellation stating the name of the company and that the company desires to cancel its certificate of authority. The certificate is canceled when the notice becomes effective.</p>	<p>35-8-1010 Withdrawal of foreign limited liability company.</p> <p>(1) A foreign limited liability company authorized to transact business in this state may not withdraw from this state until it obtains a certificate of withdrawal from the secretary of state.</p> <p>(2) A foreign limited liability company authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the secretary of state for filing. The application must set forth:</p> <ul style="list-style-type: none"> (a) the name of the foreign limited liability company and the name of the state or country under whose law it is organized; (b) that it is not transacting business in this state and that it surrenders its authority to transact business in this state; (c) that it revokes the authority of its registered agent to accept service on its behalf and appoints the secretary of state as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this state; (d) a mailing address to which the secretary of state may mail a copy of any process served on the secretary of state under subsection (3); (e) a commitment to notify the secretary of state in the future of any change in its mailing address; (f) that all taxes imposed on the foreign limited liability company by Title 15 have been paid, supported by a certificate by the department of revenue to be attached to the application to the effect that the department is satisfied from the available evidence that all taxes imposed have been paid. The issuance of the certificate does not relieve the corporation from liability for any taxes, penalties, or interest due the state of Montana. (g) additional information as may be necessary or appropriate to enable the secretary of state to determine and assess any unpaid fees or taxes payable by the foreign limited liability company. <p>(3) After the withdrawal of the foreign limited liability company is effective, service of process on the secretary of state under this section is</p>

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	service on the foreign limited liability company. Upon receipt of process, the secretary of state shall mail a copy of the process to the foreign limited liability company at the mailing address set forth under subsection (2).
<p>SECTION 808. EFFECT OF FAILURE TO HAVE CERTIFICATE OF AUTHORITY.</p> <p>(a) A foreign limited liability company transacting business in this state may not maintain an action or proceeding in this state unless it has a certificate of authority to transact business in this state.</p> <p>(b) The failure of a foreign limited liability company to have a certificate of authority to transact business in this state does not impair the validity of a contract or act of the company or prevent the company from defending an action or proceeding in this state.</p> <p>(c) A member or manager of a foreign limited liability company is not liable for the debts, obligations, or other liabilities of the company solely because the company transacted business in this state without a certificate of authority.</p> <p>(d) If a foreign limited liability company transacts business in this state without a certificate of authority or cancels its certificate of authority, it appoints the [Secretary of State] as its agent for service of process for rights of action arising out of the transaction of business in this state.</p>	<p>35-8-1002 Consequences of transacting business without authority.</p> <p>(1) A foreign limited liability company transacting business in this state without a certificate of authority may not maintain a proceeding in any court in this state until it obtains a certificate of authority.</p> <p>(2) The successor to a foreign limited liability company that transacted business in this state without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding based on that cause of action in any court in this state until the foreign limited liability company or its successor obtains a certificate of authority.</p> <p>(3) A court may stay a proceeding commenced by a foreign limited liability company or its successor or assignee until it determines whether the foreign corporation or its successor or assignee requires a certificate of authority. If it determines that a certificate is required, the court may further stay the proceeding until the foreign limited liability company or its successor obtains the certificate.</p> <p>(4) A foreign limited liability company is liable for a civil penalty of \$ 5 for each day, but not to exceed a total of \$ 1,000 for each year, that it transacts business in this state without a certificate of authority. The attorney general may collect all penalties due under this subsection and deposit them to the general fund.</p> <p>(5) Notwithstanding the provisions of subsections (1) and (2) and except as provided in subsection (6), the failure of a foreign limited liability company to obtain a certificate of authority does not impair the validity of its acts or prevent it from defending any proceeding in this state.</p> <p>(6) A contract between the state of Montana, an agency of the state, or a political subdivision of the state and a foreign limited liability company that has failed to obtain a certificate of authority, as required under 35-8-1001, is voidable by the state, the contracting state agency, or the contracting political subdivision.</p>

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	<p>35-8-1014. (Effective October 1, 2008) Admission of foreign professional limited liability companies -- application -- revocation.</p> <p>(1) A foreign professional limited liability company is entitled to a certificate of authority to transact business in this state only if:</p> <p>(a) the name of the foreign professional limited liability company meets the requirements of 35-8-1302;</p> <p>(b) the foreign professional limited liability company is organized only for purposes for which a professional limited liability company may be organized under part 13 of this chapter; and</p> <p>(c) all the members and not less than one-half of the managers of the foreign professional limited liability company are qualified persons with respect to the foreign professional limited liability company.</p> <p>(2) Notwithstanding 35-8-1001, a foreign professional limited liability company may not be required to obtain a certificate of authority to transact business in this state unless it maintains an office in this state for the conduct of business or professional practice.</p> <p>(3) The application for a certificate of authority must include a statement that all the members and not less than one-half of the managers are licensed in at least one state or territory or the District of Columbia to render a professional service described in the statement of purposes of the foreign professional limited liability company.</p> <p>(4) The certificate of authority may be revoked by the secretary of state if the foreign professional limited liability company fails to comply with any provision of part 13 of this chapter. The licensing authority shall certify to the secretary of state, from time to time, the names of all foreign professional limited liability companies that have given cause for revocation, together with the pertinent facts, and shall concurrently mail to each foreign professional limited liability company through its registered agent a notice that the certification has been made. A certificate of authority of a foreign professional limited liability company may not be revoked unless there have been both 60 days' notice of intent to revoke and a failure to correct the noncompliance</p>

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	<p>during the 60 days.</p> <p>(5) A foreign professional limited liability company is subject to all other provisions of part 13 of this chapter not inconsistent with this section.</p>
<p>SECTION 809. ACTION BY [ATTORNEY GENERAL]. The [Attorney General] may maintain an action to enjoin a foreign limited liability company from transacting business in this state in violation of this [article].</p>	
<p>SECTION 901. DIRECT ACTION BY MEMBER.</p> <p>(a) Subject to subsection (b), a member may maintain a direct action against another member, a manager, or the limited liability company to enforce the member's rights and otherwise protect the member's interests, including rights and interests under the operating agreement or this [act] or arising independently of the membership relationship.</p> <p>(b) A member maintaining a direct action under this section must plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited liability company.</p>	<p>35-8-410 Actions by members.</p> <p>(1) A member may maintain an action against a limited liability company or another member for legal or equitable relief, with or without an accounting as to the company's business, to enforce:</p> <p>(a) the member's rights under the operating agreement;</p> <p>(b) the member's rights under this chapter; or</p> <p>(c) the rights and otherwise protect the interests of the member, including rights and interests arising independently of the member's relationship to the company.</p> <p>(2) The accrual of a right of action under this section and any time limits for asserting the right of action for a remedy under this section are governed by the laws of this state. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.</p>
<p>SECTION 902. DERIVATIVE ACTION. A member may maintain a derivative action to enforce a right of a limited liability company if:</p> <p>(1) the member first makes a demand on the other members in a member-managed limited liability company, or the managers of a manager-managed limited liability company, requesting that they cause the company to bring an action to enforce the right, and the managers or other members do not bring the action within a reasonable time; or</p> <p>(2) a demand under paragraph (1) would be futile.</p>	<p>35-8-1104 Derivative actions -- proper plaintiff -- pleading -- expenses.</p> <p>(1) A member of a limited liability company may maintain an action in the right of the company if the members or managers having authority to bring the action have refused to commence the action or an effort to cause those members or managers to commence the action is not likely to succeed.</p> <p>(2) In a derivative action for a limited liability company, the plaintiff must be a member of the company when the action is commenced and:</p> <p>(a) must have been a member at the time of the transaction of which the plaintiff complains; or</p> <p>(b) the plaintiff's status as a member must have devolved upon the plaintiff by operation of law or pursuant to the terms of the operating agreement from a person who was a member at the time of the transaction.</p> <p>(3) In a derivative action for a limited liability</p>

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	<p>company, the complaint must set forth with particularity the effort of the plaintiff to secure initiation of the action by a member or manager or the reasons for not making the effort.</p> <p>(4) If a derivative action for a limited liability company is successful, in whole or in part, or if anything is received by the plaintiff as a result of a judgment, compromise, or settlement of an action or claim, the court may award the plaintiff reasonable expenses, including reasonable attorney fees, and shall direct the plaintiff to remit to the limited liability company the remainder of the proceeds received.</p>
<p>SECTION 903. PROPER PLAINTIFF.</p> <p>(a) Except as otherwise provided in subsection (b), a derivative action under Section 902 may be maintained only by a person that is a member at the time the action is commenced and remains a member while the action continues.</p> <p>(b) If the sole plaintiff in a derivative action dies while the action is pending, the court may permit another member of the limited liability company to be substituted as plaintiff.</p>	
<p>SECTION 904. PLEADING. In a derivative action under Section 902, the complaint must state with particularity:</p> <p>(1) the date and content of plaintiff's demand and the response to the demand by the managers or other members; or</p> <p>(2) if a demand has not been made, the reasons a demand under Section 902(1) would be futile.</p>	
<p>SECTION 905. SPECIAL LITIGATION COMMITTEE.</p> <p>(a) If a limited liability company is named as or made a party in a derivative proceeding, the company may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the company. If the company appoints a special litigation committee, on motion by the committee made in the name of the company, except for good cause shown, the court shall stay discovery for the time reasonably necessary to permit the committee to make its investigation. This subsection does not</p>	

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<p>prevent the court from enforcing a person's right to information under Section 410 or, for good cause shown, granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.</p> <p>(b) A special litigation committee may be composed of one or more disinterested and independent individuals, who may be members.</p> <p>(c) A special litigation committee may be appointed:</p> <p>(1) in a member-managed limited liability company:</p> <p>(A) by the consent of a majority of the members not named as defendants or plaintiffs in the proceeding; and</p> <p>(B) if all members are named as defendants or plaintiffs in the proceeding, by a majority of the members named as defendants; or</p> <p>(2) in a manager-managed limited liability company:</p> <p>(A) by a majority of the managers not named as defendants or plaintiffs in the proceeding; and</p> <p>(B) if all managers are named as defendants or plaintiffs in the proceeding, by a majority of the managers named as defendants.</p> <p>(d) After appropriate investigation, a special litigation committee may determine that it is in the best interests of the limited liability company that the proceeding:</p> <p>(1) continue under the control of the plaintiff;</p> <p>(2) continue under the control of the committee;</p> <p>(3) be settled on terms approved by the committee; or</p> <p>(4) be dismissed.</p> <p>(e) After making a determination under subsection (d), a special litigation committee shall file with the court a statement of its determination and its report supporting its determination, giving notice to the plaintiff. The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its</p>	

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<p>investigation and made its recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof. If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court shall enforce the determination of the committee. Otherwise, the court shall dissolve the stay of discovery entered under subsection (a) and allow the action to proceed under the direction of the plaintiff.</p>	
<p>SECTION 906. PROCEEDS AND EXPENSES. (a) Except as otherwise provided in subsection (b): (1) any proceeds or other benefits of a derivative action under Section 902, whether by judgment, compromise, or settlement, belong to the limited liability company and not to the plaintiff; and (2) if the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the company. (b) If a derivative action under Section 902 is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery of the limited liability company.</p>	
<p>SECTION 1001. DEFINITIONS. In this [article]: (1) "Constituent limited liability company" means a constituent organization that is a limited liability company. (2) "Constituent organization" means an organization that is party to a merger. (3) "Converted organization" means the organization into which a converting organization converts pursuant to Sections 1006 through 1009. (4) "Converting limited liability company" means a converting organization that is a limited liability company. (5) "Converting organization" means an organization that converts into another organization pursuant to Section 1006. (6) "Domesticated company" means the company that exists after a domesticating foreign limited liability company or limited liability company effects</p>	<p>35-8-1205 Definitions. As used in this part, the following definitions apply: (1) "Corporation" means a corporation formed under the laws of this state or comparable law of another jurisdiction. (2) "General partner" means a partner in a partnership and a general partner in a limited partnership. (3) "Limited partner" means a limited partner in a limited partnership. (4) "Limited partnership" means a limited partnership formed under the laws of this state or comparable law of another jurisdiction. (5) "Partner" means a general partner or a limited partner. (6) "Partnership" means a general partnership formed under the laws of this state or comparable law of another jurisdiction. (7) "Partnership agreement" means an</p>

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<p>a domestication pursuant to Sections 1010 through 1013.</p> <p>(7) "Domesticating company" means the company that effects a domestication pursuant to Sections 1010 through 1013.</p> <p>(8) "Governing statute" means the statute that governs an organization's internal affairs.</p> <p>(9) "Organization" means a general partnership, including a limited liability partnership, limited partnership, including a limited liability limited partnership, limited liability company, business trust, corporation, or any other person having a governing statute. The term includes a domestic or foreign organization regardless of whether organized for profit.</p> <p>(10) "Organizational documents" means:</p> <p style="padding-left: 40px;">(A) for a domestic or foreign general partnership, its partnership agreement;</p> <p style="padding-left: 40px;">(B) for a limited partnership or foreign limited partnership, its certificate of limited partnership and partnership agreement;</p> <p style="padding-left: 40px;">(C) for a domestic or foreign limited liability company, its certificate or articles of organization and operating agreement, or comparable records as provided in its governing statute;</p> <p style="padding-left: 40px;">(D) for a business trust, its agreement of trust and declaration of trust;</p> <p style="padding-left: 40px;">(E) for a domestic or foreign corporation for profit, its articles of incorporation, bylaws, and other agreements among its shareholders which are authorized by its governing statute, or comparable records as provided in its governing statute; and</p> <p style="padding-left: 40px;">(F) for any other organization, the basic records that create the organization and determine its internal governance and the relations among the persons that own it, have an interest in it, or are members of it.</p> <p>(11) "Personal liability" means liability for a debt, obligation, or other liability of an organization which is imposed on a person that co-owns, has an interest in, or is a</p>	<p>agreement among the partners of a partnership or a limited partnership.</p>

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<p>member of the organization:</p> <p>(A) by the governing statute solely by reason of the person co-owning, having an interest in, or being a member of the organization; or</p> <p>(B) by the organization's organizational documents under a provision of the governing statute authorizing those documents to make one or more specified persons liable for all or specified debts, obligations, or other liabilities of the organization solely by reason of the person or persons co-owning, having an interest in, or being a member of the organization.</p> <p>(12) "Surviving organization" means an organization into which one or more other organizations are merged whether the organization preexisted the merger or was created by the merger.</p>	
<p>SECTION 1002. MERGER.</p> <p>(a) A limited liability company may merge with one or more other constituent organizations pursuant to this section, Sections 1003 through 1005, and a plan of merger, if:</p> <p>(1) the governing statute of each of the other organizations authorizes the merger;</p> <p>(2) the merger is not prohibited by the law of a jurisdiction that enacted any of the governing statutes; and</p> <p>(3) each of the other organizations complies with its governing statute in effecting the merger.</p> <p>(b) A plan of merger must be in a record and must include:</p> <p>(1) the name and form of each constituent organization;</p> <p>(2) the name and form of the surviving organization and, if the surviving organization is to be created by the merger, a statement to that effect;</p> <p>(3) the terms and conditions of the merger, including the manner and basis for converting the interests in each constituent organization into any combination of money, interests in the surviving organization, and other consideration;</p> <p>(4) if the surviving organization</p>	<p>35-8-1201 Merger.</p> <p>(1) Pursuant to a plan of merger approved under subsection (3), a domestic limited liability company may merge with or into one or more limited liability companies, foreign limited liability companies, partnerships, foreign partnerships, limited partnerships, foreign limited partnerships, or other domestic or foreign entities. In the case of a merger with a foreign business entity, the merger must be permitted by the laws of the jurisdiction in which the foreign entity is incorporated or organized.</p> <p>(2) A plan of merger must set forth:</p> <p>(a) the name of each entity that is a party to the merger;</p> <p>(b) the name of the surviving entity into which the other entities will merge;</p> <p>(c) the type of organization of the surviving entity;</p> <p>(d) the terms and conditions of the merger;</p> <p>(e) the manner and basis for converting the interests of each party to the merger into interests or obligations of the surviving entity or into money or other property, in whole or in part; and</p> <p>(f) the street address of the surviving entity's principal place of business.</p> <p>(3) A plan of merger must be approved:</p> <p>(a) in the case of a limited liability company that is a party to the merger, by all of the members or by a number or percentage of members</p>

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<p>is to be created by the merger, the surviving organization's organizational documents that are proposed to be in a record; and</p> <p>(5) if the surviving organization is not to be created by the merger, any amendments to be made by the merger to the surviving organization's organizational documents that are, or are proposed to be, in a record.</p>	<p>specified in the operating agreement;</p> <p>(b) in the case of a foreign limited liability company that is a party to the merger, by the vote required for approval of a merger by the law of the state or foreign jurisdiction in which the foreign limited liability company is organized;</p> <p>(c) in the case of a domestic partnership or domestic limited partnership that is a party to the merger, by the vote required for approval of a conversion under 35-8-1210(2); and</p> <p>(d) in the case of any other entities that are parties to the merger, by the vote required for approval of a merger by the law of this state or of the state or foreign jurisdiction in which the entity is organized and, in the absence of any requirement, by all the owners of interests in the entity.</p> <p>(4) After a plan of merger is approved and before the merger takes effect, the plan may be amended or abandoned as provided in the plan.</p> <p>(5) The merger is effective upon the filing of the articles of merger with the secretary of state or at a later date as the articles may provide.</p>
<p>SECTION 1003. ACTION ON PLAN OF MERGER BY CONSTITUENT LIMITED LIABILITY COMPANY.</p> <p>(a) Subject to Section 1014, a plan of merger must be consented to by all the members of a constituent limited liability company.</p> <p>(b) Subject to Section 1014 and any contractual rights, after a merger is approved, and at any time before articles of merger are delivered to the [Secretary of State] for filing under Section 1004, a constituent limited liability company may amend the plan or abandon the merger:</p> <p>(1) as provided in the plan; or</p> <p>(2) except as otherwise prohibited in the plan, with the same consent as was required to approve the plan.</p>	
<p>SECTION 1004. FILINGS REQUIRED FOR MERGER; EFFECTIVE DATE.</p> <p>(a) After each constituent organization has approved a merger, articles of merger must be signed on behalf of:</p> <p>(1) each constituent limited liability company, as provided in Section 203(a); and</p> <p>(2) each other constituent</p>	<p>35-8-1202 Articles of merger.</p> <p>(1) After approval of the plan of merger under 35-8-1201(3), unless the merger is abandoned under 35-8-1201(4), articles of merger must be signed on behalf of each limited liability company and other entity that is a party to the merger and delivered to the secretary of state for filing. The articles must set forth:</p> <p>(a) the name and jurisdiction of formation or</p>

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<p>organization, as provided in its governing statute.</p> <p>(b) Articles of merger under this section must include:</p> <p>(1) the name and form of each constituent organization and the jurisdiction of its governing statute;</p> <p>(2) the name and form of the surviving organization, the jurisdiction of its governing statute, and, if the surviving organization is created by the merger, a statement to that effect;</p> <p>(3) the date the merger is effective under the governing statute of the surviving organization;</p> <p>(4) if the surviving organization is to be created by the merger:</p> <p>(A) if it will be a limited liability company, the company's certificate of organization; or</p> <p>(B) if it will be an organization other than a limited liability company, the organizational document that creates the organization that is in a public record;</p> <p>(5) if the surviving organization preexists the merger, any amendments provided for in the plan of merger for the organizational document that created the organization that are in a public record;</p> <p>(6) a statement as to each constituent organization that the merger was approved as required by the organization's governing statute;</p> <p>(7) if the surviving organization is a foreign organization not authorized to transact business in this state, the street and mailing addresses of an office that the [Secretary of State] may use for the purposes of Section 1005(b); and</p> <p>(8) any additional information required by the governing statute of any constituent organization.</p> <p>(c) Each constituent limited liability company shall deliver the articles of merger for filing in the [office of the Secretary of State].</p> <p>(d) A merger becomes effective under this [article]:</p> <p>(1) if the surviving organization</p>	<p>organization of each of the limited liability companies and other entities that are parties to the merger;</p> <p>(b) for each limited liability company that is to merge, the date on which its articles of organization were filed with the secretary of state;</p> <p>(c) that a plan of merger has been approved and signed by each limited liability company and other entity that is to merge;</p> <p>(d) the name and address of the surviving limited liability company or other surviving entity;</p> <p>(e) the effective date of the merger;</p> <p>(f) if a limited liability company is the surviving entity, the changes in its articles of organization that are necessary by reason of the merger;</p> <p>(g) if a party to a merger is a foreign limited liability company, the jurisdiction and date of filing of its initial articles of organization and the date when its application for authority was filed by the secretary of state or, if an application has not been filed, a statement to that effect; and</p> <p>(h) if the surviving entity is not a limited liability company, the agreement that the surviving entity may be served with process in this state and is subject to liability in any action or proceeding for the enforcement of any liability or obligation of any limited liability company previously subject to suit in this state that is to merge and for the enforcement, as provided in this chapter, of the right of members of any limited liability company to receive payment for their interest against the surviving entity; and</p> <p>(i) the name and address of the registered agent of the surviving entity.</p> <p>(2) If a foreign limited liability company is the surviving entity of a merger, it may not do business in this state until an application for that authority is filed with the secretary of state.</p> <p>(3) The surviving limited liability company or other entity shall furnish a copy of the plan of merger, on request and without cost, to any member of any limited liability company or any person holding an interest in any other entity that is subject to the merger.</p> <p>(4) Articles of merger operate as an amendment to a surviving limited liability company's articles of organization.</p>

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<p>is a limited liability company, upon the later of:</p> <p style="padding-left: 40px;">(A) compliance with subsection (c); or</p> <p style="padding-left: 40px;">(B) subject to Section 205(c), as specified in the articles of merger; or</p> <p style="padding-left: 40px;">(2) if the surviving organization is not a limited liability company, as provided by the governing statute of the surviving organization.</p>	
<p>SECTION 1005. EFFECT OF MERGER.</p> <p>(a) When a merger becomes effective:</p> <p style="padding-left: 40px;">(1) the surviving organization continues or comes into existence;</p> <p style="padding-left: 40px;">(2) each constituent organization that merges into the surviving organization ceases to exist as a separate entity;</p> <p style="padding-left: 40px;">(3) all property owned by each constituent organization that ceases to exist vests in the surviving organization;</p> <p style="padding-left: 40px;">(4) all debts, obligations, or other liabilities of each constituent organization that ceases to exist continue as debts, obligations, or other liabilities of the surviving organization;</p> <p style="padding-left: 40px;">(5) an action or proceeding pending by or against any constituent organization that ceases to exist may be continued as if the merger had not occurred;</p> <p style="padding-left: 40px;">(6) except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent organization that ceases to exist vest in the surviving organization;</p> <p style="padding-left: 40px;">(7) except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect; and</p> <p style="padding-left: 40px;">(8) except as otherwise agreed, if a constituent limited liability company ceases to exist, the merger does not dissolve the limited liability company for the purposes of [Article] 7;</p> <p style="padding-left: 40px;">(9) if the surviving organization is created by the merger:</p> <p style="padding-left: 80px;">(A) if it is a limited</p>	<p>35-8-1203. (Effective October 1, 2008)</p> <p>Effect of merger.</p> <p>(1) When a merger takes effect:</p> <p style="padding-left: 20px;">(a) the separate existence of each limited liability company and other entity that are a party to the merger, other than the surviving entity, terminates;</p> <p style="padding-left: 20px;">(b) all property owned by each of the limited liability companies and other entities that are a party to the merger vests in the surviving entity;</p> <p style="padding-left: 20px;">(c) all debts, liabilities, and other obligations of each limited liability company and other entity that are a party to the merger become the obligations of the surviving entity;</p> <p style="padding-left: 20px;">(d) an action or proceeding pending by or against a limited liability company or other entity that is a party to a merger may be continued as if the merger had not occurred or the surviving entity may be substituted as a party to the action or proceeding; and</p> <p style="padding-left: 20px;">(e) except as prohibited by other law, all the rights, privileges, immunities, powers, and purposes of every limited liability company and other entity that are a party to a merger vest in the surviving entity.</p> <p>(2) If the surviving foreign entity fails to appoint or maintain an agent designated for service of process in this state or if the agent for service of process cannot with reasonable diligence be found, service of process may be made on the foreign entity as provided in 35-7-113(2). Service is effected under this subsection at the earliest of:</p> <p style="padding-left: 20px;">(a) the date on which the company receives the process, notice, or demand;</p> <p style="padding-left: 20px;">(b) the date shown on the return receipt, if signed on behalf of the company; or</p> <p style="padding-left: 20px;">(c) 5 days after its deposit in the mail, if mailed postpaid and correctly addressed.</p>

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<p>liability company, the certificate of organization becomes effective; or (B) if it is an organization other than a limited liability company, the organizational document that creates the organization becomes effective; and</p> <p>(10) if the surviving organization preexisted the merger, any amendments provided for in the articles of merger for the organizational document that created the organization become effective.</p> <p>(b) A surviving organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any debt, obligation, or other liability owed by a constituent organization, if before the merger the constituent organization was subject to suit in this state on the debt, obligation, or other liability. A surviving organization that is a foreign organization and not authorized to transact business in this state appoints the [Secretary of State] as its agent for service of process for the purposes of enforcing a debt, obligation, or other liability under this subsection. Service on the [Secretary of State] under this subsection must be made in the same manner and has the same consequences as in Section 116(c) and (d).</p>	<p>(3) A member of the surviving limited liability company is liable for all obligations of a party to the merger for which the member was personally liable before the merger.</p> <p>(4) Unless otherwise agreed, a merger of a limited liability company that is not the surviving entity in the merger does not require the limited liability company to wind up its business under this chapter or to pay its liabilities and distribute its assets pursuant to this chapter.</p> <p>(5) Articles of merger serve as articles of dissolution for a limited liability company that is not the surviving entity in the merger.</p>
<p>SECTION 1006. CONVERSION.</p> <p>(a) An organization other than a limited liability company or a foreign limited liability company may convert to a limited liability company, and a limited liability company may convert to an organization other than a foreign limited liability company pursuant to this section, Sections 1007 through 1009, and a plan of conversion, if:</p> <p>(1) the other organization's governing statute authorizes the conversion;</p> <p>(2) the conversion is not prohibited by the law of the jurisdiction that enacted the other organization's governing statute; and</p> <p>(3) the other organization complies with its governing statute in effecting the conversion.</p> <p>(b) A plan of conversion must be in a record and must include:</p>	<p>35-8-1210 Conversion of partnership or limited partnership to limited liability company.</p> <p>(1) A partnership or limited partnership may be converted to a limited liability company pursuant to this section.</p> <p>(2) The terms and conditions of a conversion of a partnership or limited partnership to a limited liability company must be approved by all of the partners or by a number or percentage of the partners required for conversion in the partnership agreement.</p> <p>(3) An agreement of conversion must set forth the terms and conditions of the conversion of the interests of partners of a partnership or of a limited partnership, as the case may be, into interests in the converted limited liability company or cash or other consideration to be paid or delivered as a result of the conversion of the interests of the partners, or a combination of interests, cash, or other consideration.</p>

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<p>(1) the name and form of the organization before conversion;</p> <p>(2) the name and form of the organization after conversion;</p> <p>(3) the terms and conditions of the conversion, including the manner and basis for converting interests in the converting organization into any combination of money, interests in the converted organization, and other consideration; and</p> <p>(4) the organizational documents of the converted organization that are, or are proposed to be, in a record.</p>	<p>(4) After a conversion is approved under subsection (2), the partnership or limited partnership shall file articles of organization and all filing fees in the office of the secretary of state that satisfy the requirements of 35-8-202 and that contain:</p> <p>(a) a statement that the partnership or limited partnership was converted to a limited liability company from a partnership or limited partnership;</p> <p>(b) its former name;</p> <p>(c) a statement of the number of votes cast by the partners entitled to vote for and against the conversion and, if the vote is less than unanimous, the number or percentage required to approve the conversion under subsection (2); and</p> <p>(d) in the case of a limited partnership, a statement that the certificate of limited partnership is to be canceled as of the date on which the conversion took effect.</p> <p>(5) In the case of a limited partnership, the filing of articles of organization under subsection (4) cancels its certificate of limited partnership as of the date on which the conversion took effect.</p> <p>(6) A conversion takes effect when the articles of organization are filed in the office of the secretary of state or at any later date specified in the articles of organization.</p> <p>(7) A general partner who becomes a member of a limited liability company as a result of a conversion remains liable as a partner for any obligation incurred by the partnership or limited partnership before the conversion takes effect.</p> <p>(8) A general partner's liability for all obligations of the limited liability company incurred after the conversion takes effect is that of a member of the company.</p> <p>(9) A limited partner who becomes a member as a result of a conversion remains liable for obligations of the limited partnership only to the extent that the limited partner was liable for an obligation incurred by the limited partnership before the conversion takes effect.</p>
<p>SECTION 1007. ACTION ON PLAN OF CONVERSION BY CONVERTING LIMITED LIABILITY COMPANY.</p> <p>(a) Subject to Section 1014, a plan of conversion must be consented to by all the members of a converting limited liability</p>	

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<p>company.</p> <p>(b) Subject to Section 1014 and any contractual rights, after a conversion is approved, and at any time before articles of conversion are delivered to the [Secretary of State] for filing under Section 1008, a converting limited liability company may amend the plan or abandon the conversion:</p> <p style="padding-left: 40px;">(1) as provided in the plan; or</p> <p style="padding-left: 40px;">(2) except as otherwise prohibited in the plan, by the same consent as was required to approve the plan.</p>	
<p>SECTION 1008. FILINGS REQUIRED FOR CONVERSION; EFFECTIVE DATE.</p> <p>(a) After a plan of conversion is approved:</p> <p style="padding-left: 40px;">(1) a converting limited liability company shall deliver to the [Secretary of State] for filing articles of conversion, which must be signed as provided in Section 203(a) and must include;</p> <p style="padding-left: 80px;">(A) a statement that the limited liability company has been converted into another organization;</p> <p style="padding-left: 80px;">(B) the name and form of the organization and the jurisdiction of its governing statute;</p> <p style="padding-left: 80px;">(C) the date the conversion is effective under the governing statute of the converted organization;</p> <p style="padding-left: 80px;">(D) a statement that the conversion was approved as required by this [act];</p> <p style="padding-left: 80px;">(E) a statement that the conversion was approved as required by the governing statute of the converted organization; and</p> <p style="padding-left: 80px;">(F) if the converted organization is a foreign organization not authorized to transact business in this state, the street and mailing addresses of an office which the [Secretary of State] may use for the purposes of Section 1009(c); and</p> <p style="padding-left: 40px;">(2) if the converting organization is not a converting limited liability company, the converting organization shall deliver to the [Secretary of State] for filing a certificate of organization, which must include, in addition to the information required by Section 201(b):</p>	

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<p>(A) a statement that the converted organization was converted from another organization;</p> <p>(B) the name and form of that converting organization and the jurisdiction of its governing statute; and</p> <p>(C) a statement that the conversion was approved in a manner that complied with the converting organization's governing statute.</p> <p>(b) A conversion becomes effective:</p> <p>(1) if the converted organization is a limited liability company, when the certificate of organization takes effect; and</p> <p>(2) if the converted organization is not a limited liability company, as provided by the governing statute of the converted organization.</p>	
<p>SECTION 1009. EFFECT OF CONVERSION.</p> <p>(a) An organization that has been converted pursuant to this [article] is for all purposes the same entity that existed before the conversion.</p> <p>(b) When a conversion takes effect:</p> <p>(1) all property owned by the converting organization remains vested in the converted organization;</p> <p>(2) all debts, obligations, or other liabilities of the converting organization continue as debts, obligations, or other liabilities of the converted organization;</p> <p>(3) an action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred;</p> <p>(4) except as prohibited by law other than this [act], all of the rights, privileges, immunities, powers, and purposes of the converting organization remain vested in the converted organization;</p> <p>(5) except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect; and</p> <p>(6) except as otherwise agreed, the conversion does not dissolve a converting limited liability company for the purposes of [Article] 7.</p> <p>(c) A converted organization that is a</p>	<p>35-8-1211 Effect of conversion -- entity unchanged -- part not exclusive.</p> <p>(1) A partnership or limited partnership that has been converted pursuant to this part is for all purposes the same entity that existed before the conversion.</p> <p>(2) When a conversion takes effect:</p> <p>(a) all property owned by the converting partnership or limited partnership vests in the limited liability company;</p> <p>(b) all debts, liabilities, and other obligations of the converting partnership or limited partnership continue as obligations of the limited liability company;</p> <p>(c) an action or proceeding pending by or against the converting partnership or limited partnership may be continued as if the conversion had not occurred;</p> <p>(d) except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the converting partnership or limited partnership vest in the limited liability company; and</p> <p>(e) except as otherwise provided in the agreement of conversion under 35-8-1210(3), all of the partners of the converting partnership continue as members of the limited liability company.</p> <p>(3) The provisions of this part do not preclude an entity from being converted or merged under other provisions of law.</p>

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<p>foreign organization consents to the jurisdiction of the courts of this state to enforce any debt, obligation, or other liability for which the converting limited liability company is liable if, before the conversion, the converting limited liability company was subject to suit in this state on the debt, obligation, or other liability. A converted organization that is a foreign organization and not authorized to transact business in this state appoints the [Secretary of State] as its agent for service of process for purposes of enforcing a debt, obligation, or other liability under this subsection. Service on the [Secretary of State] under this subsection must be made in the same manner and has the same consequences as in Section 116(c) and (d).</p>	
<p>SECTION 1010. DOMESTICATION.</p> <p>(a) A foreign limited liability company may become a limited liability company pursuant to this section, Sections 1011 through 1013, and a plan of domestication, if:</p> <ul style="list-style-type: none"> (1) the foreign limited liability company's governing statute authorizes the domestication; (2) the domestication is not prohibited by the law of the jurisdiction that enacted the governing statute; and (3) the foreign limited liability company complies with its governing statute in effecting the domestication. <p>(b) A limited liability company may become a foreign limited liability company pursuant to this section, Sections 1011 through 1013, and a plan of domestication, if:</p> <ul style="list-style-type: none"> (1) the foreign limited liability company's governing statute authorizes the domestication; (2) the domestication is not prohibited by the law of the jurisdiction that enacted the governing statute; and (3) the foreign limited liability company complies with its governing statute in effecting the domestication. <p>(c) A plan of domestication must be in a record and must include:</p> <ul style="list-style-type: none"> (1) the name of the 	

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<p>domesticating company before domestication and the jurisdiction of its governing statute;</p> <p>(2) the name of the domesticated company after domestication and the jurisdiction of its governing statute;</p> <p>(3) the terms and conditions of the domestication, including the manner and basis for converting interests in the domesticating company into any combination of money, interests in the domesticated company, and other consideration; and</p> <p>(4) the organizational documents of the domesticated company that are, or are proposed to be, in a record.</p>	
<p>SECTION 1011. ACTION ON PLAN OF DOMESTICATION BY DOMESTICATING LIMITED LIABILITY COMPANY.</p> <p>(a) A plan of domestication must be consented to:</p> <p>(1) by all the members, subject to Section 1014, if the domesticating company is a limited liability company; and</p> <p>(2) as provided in the domesticating company's governing statute, if the company is a foreign limited liability company.</p> <p>(b) Subject to any contractual rights, after a domestication is approved, and at any time before articles of domestication are delivered to the [Secretary of State] for filing under Section 1012, a domesticating limited liability company may amend the plan or abandon the domestication:</p> <p>(1) as provided in the plan; or</p> <p>(2) except as otherwise prohibited in the plan, by the same consent as was required to approve the plan.</p>	
<p>SECTION 1012. FILINGS REQUIRED FOR DOMESTICATION; EFFECTIVE DATE.</p> <p>(a) After a plan of domestication is approved, a domesticating company shall deliver to the [Secretary of State] for filing articles of domestication, which must include:</p> <p>(1) a statement, as the case may be, that the company has been domesticated from or into another jurisdiction;</p>	

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<p>(2) the name of the domesticating company and the jurisdiction of its governing statute;</p> <p>(3) the name of the domesticated company and the jurisdiction of its governing statute;</p> <p>(4) the date the domestication is effective under the governing statute of the domesticated company;</p> <p>(5) if the domesticating company was a limited liability company, a statement that the domestication was approved as required by this [act];</p> <p>(6) if the domesticating company was a foreign limited liability company, a statement that the domestication was approved as required by the governing statute of the other jurisdiction; and</p> <p>(7) if the domesticated company was a foreign limited liability company not authorized to transact business in this state, the street and mailing addresses of an office that the [Secretary of State] may use for the purposes of Section 1013(b).</p> <p>(b) A domestication becomes effective:</p> <p>(1) when the certificate of organization takes effect, if the domesticated company is a limited liability company; and</p> <p>(2) according to the governing statute of the domesticated company, if the domesticated organization is a foreign limited liability company.</p>	
<p>SECTION 1013. EFFECT OF DOMESTICATION.</p> <p>(a) When a domestication takes effect:</p> <p>(1) the domesticated company is for all purposes the company that existed before the domestication;</p> <p>(2) all property owned by the domesticating company remains vested in the domesticated company;</p> <p>(3) all debts, obligations, or other liabilities of the domesticating company continue as debts, obligations, or other liabilities of the domesticated company;</p>	

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<p>(4) an action or proceeding pending by or against a domesticating company may be continued as if the domestication had not occurred;</p> <p>(5) except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the domesticating company remain vested in the domesticated company;</p> <p>(6) except as otherwise provided in the plan of domestication, the terms and conditions of the plan of domestication take effect; and</p> <p>(7) except as otherwise agreed, the domestication does not dissolve a domesticating limited liability company for the purposes of [Article] 7.</p> <p>(b) A domesticated company that is a foreign limited liability company consents to the jurisdiction of the courts of this state to enforce any debt, obligation, or other liability owed by the domesticating company, if, before the domestication, the domesticating company was subject to suit in this state on the debt, obligation, or other liability. A domesticated company that is a foreign limited liability company and not authorized to transact business in this state appoints the [Secretary of State] as its agent for service of process for purposes of enforcing a debt, obligation, or other liability under this subsection. Service on the [Secretary of State] under this subsection must be made in the same manner and has the same consequences as in Section 116(c) and (d).</p> <p>(c) If a limited liability company has adopted and approved a plan of domestication under Section 1010 providing for the company to be domesticated in a foreign jurisdiction, a statement surrendering the company's certificate of organization must be delivered to the [Secretary of State] for filing setting forth:</p> <p>(1) the name of the company;</p> <p>(2) a statement that the certificate of organization is being surrendered in connection with the domestication of the company in a foreign jurisdiction;</p> <p>(3) a statement the</p>	

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<p>domestication was approved as required by this [act]; and</p> <p>(4) the jurisdiction of formation of the domesticated foreign limited liability company.</p>	
<p>SECTION 1014. RESTRICTIONS ON APPROVAL OF MERGERS, CONVERSIONS, AND DOMESTICATIONS.</p> <p>(a) If a member of a constituent, converting, or domesticating limited liability company will have personal liability with respect to a surviving, converted, or domesticated organization, approval or amendment of a plan of merger, conversion, or domestication are ineffective without the consent of the member, unless:</p> <p>(1) the company's operating agreement provides for approval of a merger, conversion, or domestication with the consent of fewer than all the members; and</p> <p>(2) the member has consented to the provision of the operating agreement.</p> <p>(b) A member does not give the consent required by subsection (a) merely by consenting to a provision of the operating agreement that permits the operating agreement to be amended with the consent of fewer than all the members.</p>	
<p>SECTION 1015. [ARTICLE] NOT EXCLUSIVE. This [article] does not preclude an entity from being merged, converted, or domesticated under law other than this [act].</p>	
	<p>35-8-1301 Purposes of professional limited liability companies.</p> <p>Professional limited liability companies may be organized under this part only for the purpose of rendering professional services and services ancillary to professional services within a single profession, except that a professional limited liability company may be organized for the purpose of rendering professional services within two or more professions and for any purpose or purposes for which companies may be organized under this chapter to the extent that the combination of professional purposes or professional and business purposes is permitted by the licensing laws and rules of this state applicable to the</p>

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	professions.
	<p>35-8-1302 Professional limited liability company name.</p> <p>The name of a domestic or foreign professional limited liability company:</p> <p>(1) must contain the words "professional limited liability company", "professional limited company", "professional l.l.c.", "professional llc", "p.l.l.c.", or "pllc"; and</p> <p>(2) must conform to rules promulgated by a licensing authority having jurisdiction of a professional service described in the articles of organization.</p>
	<p>35-8-1303 Professional limited liability company managers.</p> <p>At least one-half of the managers of a professional limited liability company must be qualified persons with respect to the limited liability company.</p>
	<p>35-8-1304 Membership in professional limited liability company.</p> <p>(1) Only the following persons may be members of a professional limited liability company:</p> <p>(a) natural persons authorized by law of this or any other state, a territory of the United States, or the District of Columbia to render a professional service permitted by the articles of organization of the professional limited liability company;</p> <p>(b) general partnerships in which all the partners are authorized by law of this or any other state, a territory of the United States, or the District of Columbia to render a professional service permitted by the articles of incorporation and in which at least one partner is authorized by law in this state to render a professional service permitted by the articles of organization of the professional limited liability company; and</p> <p>(c) domestic or foreign professional corporations and domestic or foreign professional limited liability companies authorized by law in this state to render a professional service permitted by the articles of organization of the professional limited liability company.</p> <p>(2) The licensing authority may by rule further restrict or condition the issuance of membership interests in order to preserve ethical standards, but a rule may not cause a member at the time the rule becomes effective to become a disqualified person.</p>

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	<p>35-8-1305 Rendering services. A domestic or foreign professional limited liability company may render professional services in this state only through natural persons permitted to render the services in this state; however, nothing in this part requires any person employed by a professional limited liability company to be licensed to perform services for which a license is not otherwise required or prohibits the rendering of professional services by a licensed natural person acting in that person's individual capacity, even if the person is a member or manager of a professional limited liability company.</p>
	<p>35-8-1306 Responsibility for services. (1) An individual who renders professional services as a member or an employee of a domestic or foreign professional limited liability company is liable for any negligent or wrongful act or omission in which the individual personally participates to the same extent as if the individual had rendered the services as a sole practitioner. A member or an employee of a professional limited liability company is not liable for the conduct of other members or employees unless the member or employee is at fault in appointing, supervising, or cooperating with them. (2) A domestic or foreign professional limited liability company whose member or employee performs professional services within the scope of the member's or employee's employment or apparent authority to act for the company is liable to the same extent as the member or employee. (3) Except as otherwise provided by statute, the personal liability of a member of a domestic or foreign professional limited liability company is no greater in any respect than that of a member of a limited liability company otherwise organized under this part.</p>
	<p>35-8-1307 Relationship to clients and patients. (1) The relationship between an individual performing professional services as an employee of a domestic or foreign professional limited liability company and a client or patient is the same as if the individual performed the services as a sole practitioner. (2) The relationship between a domestic or foreign professional limited liability company</p>

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	<p>performing professional services and the client or patient is the same as between the client or patient and the individual performing the services.</p> <p>(3) Any privilege applicable to communications between a person rendering professional services and the person receiving the services recognized under the statutory or common law of this state extends to a domestic or foreign professional limited liability company and its employees.</p>
<p>SECTION 1101. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.</p>	<p>35-8-111 Uniformity of application and construction.</p> <p>Unless otherwise provided in this chapter, this chapter must be applied and construed to effectuate its general purpose to make the law with respect to the subject of this chapter among states enacting the Uniform Limited Liability Company Act.</p>
<p>SECTION 1102. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This [act] modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).</p>	
<p>SECTION 1103. SAVINGS CLAUSE. This [act] does not affect an action commenced, proceeding brought, or right accrued before this [act] takes effect.</p>	
<p>SECTION 1104. APPLICATION TO EXISTING RELATIONSHIPS.</p> <p>(a) Before [all-inclusive date], this [act] governs only:</p> <p>(1) a limited liability company formed on or after [the effective date of this act]; and</p> <p>(2) except as otherwise provided in subsection (c), a limited liability company formed before [the effective date of this act] which elects, in the manner provided in its operating agreement or by law for amending the operating agreement, to be subject to this [act].</p> <p>(b) Except as otherwise provided in subsection (c), on and after [all-inclusive</p>	

Revised Uniform Limited Liability Company Act (2006)	Montana Limited Liability Company Act (Based on ULLCA from 1996)
<p>date] this [act] governs all limited liability companies.</p> <p>(c) For the purposes applying this [act] to a limited liability company formed before [the effective date of this act]:</p> <p>(1) the company's articles of organization are deemed to be the company's certificate of organization; and</p> <p>(2) for the purposes of applying Section 102(10) and subject to Section 112(d), language in the company's articles of organization designating the company's management structure operates as if that language were in the operating agreement.</p>	
<p>SECTION 1105. REPEALS. Effective [all-inclusive date], the following acts and parts of acts are repealed: [the state limited liability company act, as amended, and in effect immediately before the effective date of this act].</p>	
<p>SECTION 1106. EFFECTIVE DATE. This [act] takes effect on</p>	